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S. HRG. 98-148

U.N. REGULATIONS—FOOD AND OTHER EXPORTS

HEARING

BEFORE THE

SUBCOMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS AND ENVIRONMENT

OF THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

MAY 19, 1983

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U.N. REGULATIONS—FOOD AND OTHER EXPORTS

THURSDAY, MAY 19, 1983

UNITED STATES SENATE,
SUBCOMMITTEE ON ARMS CONTROL, OCEANS,
INTERNATIONAL OPERATIONS AND ENVIRONMENT
OF THE COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room SD–419, Dirksen Senate Office Building, Hon. Larry Pressler (chairman of the subcommittee) presiding.

Present: Senators Pressler, Helms, and Lugar.

Senator PRESSLER. I will call this meeting to order. We have other Senators on their way, but I wanted to make a brief opening statement. We are very pleased to have Ambassador Kirkpatrick here and we want to hear from her.

Today the Subcommittee on Arms Control, Oceans, International Operations and Environment—which is one of the longest names of any subcommittee in Congress—will hear testimony on the growing problem of various United Nations organizations producing draft international guidelines and regulations which restrict U.S. exports abroad, particularly food and grain.

As Ambassador Kirkpatrick stated in a recent article, "There has been a veritable explosion of U.N. regulatory activities." Many of these rules are useful to prevent anarchy in an increasingly complex and interdependent world and involve health, safety and orderly conduct of business—however, there is a growing trend to utilize this regulatory process as an instrument to facilitate the redistribution of the world's wealth. I find this an extremely alarming development.

We see draft regulations aimed at first, giving lesser developed nations guaranteed shares of the profits from cargo shipping and underseas mining of seabed materials by industrial countries; second, granting the Third World a say in the behavior of multinational corporations and in the marketing of drugs, chemicals, foods, and infant formulas; and third, authorizing nations, including repressive dictatorships and Communist regimes to impose controls on the movement of public information and commercial data over their national borders.

These efforts, if successful, could severely alter American life in ways that would be felt here at home as well as abroad and by U.S. industry and consumers alike. As bad as these regulations may be for the developed, industrialized world, they would be far more harmful in the long run for the Third World. By ignoring the realities of capital formation and economic incentives, these regulations would greatly impede the accumulation and flow of capital and resources

that are true prerequisites for developing both the technology and the economic growth sought by the developing world.

It is the purpose of this hearing to receive testimony concerning the growing problem of U.N. global regulations and to explore current governmental efforts to deal with the issue, along with options to improve the U.S. governmental structures for addressing the problem.

On April 15, 1983, I introduced Senate Resolution 115 addressing this problem. Subsequently, that resolution was adopted by the Foreign Relations Committee as an amendment to the fiscal year 1984 State Department authorization bill—S. 1342. I ask that the text of my resolution, as well as my correspondence with the Department of State on this question, be included in the record of this hearing. The draft guidelines on consumer protection will also be included in the record.

[Text of Senate Resolution 115 and correspondence follows:]

III

98TH CONGRESS
1ST SESSION

S. RES. 115

To express the sense of the Senate on the need to facilitate United States exports by opposing international restrictions on the marketing and distribution of such exports.

IN THE SENATE OF THE UNITED STATES

APRIL 15 (legislative day, APRIL 12), 1983

Mr. PRESSLER submitted the following resolution; which was referred to the Committee on Foreign Relations

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RESOLUTION

To express the sense of the Senate on the need to facilitate United States exports by opposing international restrictions on the marketing and distribution of such exports.

Whereas, in an increasingly interdependent world economy, Government measures that restrict the economic and efficient marketing and distribution of American exports of agricultural commodities, goods, and services hurt not only United States producers but also consumers in countries around the world; and

Whereas United Nations Ambassador Jeane Kirkpatrick recently called attention to the growth of such restrictions in her speech of December 9, 1982, on "Global Paternalism: The U.N. and the New International Regulatory Order"; and

Whereas the Economic and Social Council of the United Nations is scheduled to act at its July 1983 meeting in Geneva on proposed "consumer protection" guidelines which may restrict United States exports and consumer choice; and

Whereas other comparable restrictions are currently under development in the United Nations Commission on Trade and Development, and elsewhere; and

Whereas it is the policy of the Reagan administration to seek relief from unnecessary domestic regulations which restrict the effective operation of the American market economy, and there seems every reason to apply a similar policy with respect to international regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States representatives to United Nations-related agencies and to other international organizations should oppose the adoption of international marketing and distribution regulations or restrictions which unnecessarily impede the export of United States agricultural and other products.

[From the Congressional Record, Apr. 15, 1983]

SENATE RESOLUTION 115—RELATING TO UNITED NATIONS CONSUMER GUIDELINES

Mr. PRESSLER. Mr. President, today I am submitting a resolution to promote U.S. agricultural and other exports by opposing unnecessary restrictions and regulations developed and administered by international organizations.

On March 22, I reported to this body that I had expressed my concerns to Secretary of State George P. Shultz about recent developments in the United Nations that could adversely affect exports of American products, especially agricultural commodities and finished goods.

My concerns focused generally on the dramatic increase in the number and scope of U.N. attempts to regulate or otherwise influence our international trade, and my specific concern was the proposed worldwide consumer protection guidelines pending before the U.N. Economic and Social Council. As Ambassador Jeane J. Kirkpatrick stated in her article, "Global Paternalism," published in the January/February 1983 issue of Regulation:

"Attempts to deal with these problems [health and safety] within the U.N., however, too often are caught up, in a very crude kind of anti-capitalist ideology that is more concerned with restricting and discrediting multinational/transnational corporations."

Mr. President, this is a subject that should concern all of us in Congress from a jurisdictional, as well as a substantive, point of view. I chair two subcommittees with foreign trade oversight responsibilities, and I represent a State that has significant interests in matters affecting foreign trade. Yet, neither I nor any similarly situated colleague, to my knowledge, was given direct notice of the pendency and scope of these so-called consumer protection guidelines that are expressly intended to affect the regulation of both our foreign and domestic commerce.

Unless article I of the Constitution was amended recently, Congress still has exclusive jurisdiction over the regulation of American commerce here and abroad. Yet, according to a State Department response to my original letter, only the views of trade associations, consumer groups and Federal agencies were directly solicited by the executive branch to approve in the name of the United States concepts for regulating our commerce. What is next—the signing of binding foreign trade agreements without our review?

Mr. President, because of the importance of this subject to American agriculture, trade and this body's own constitutional mandate, I ask unanimous consent that the State Department's response to my original inquiry be printed at this point in the Record, followed by my reply to that response, and my most recent letter to Secretary Shultz. My original five questions appear at page S3573 of the March 22, 1983 Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

DEPARTMENT OF STATE,
Washington, D.C., April 1, 1983.

Hon. LARRY PRESSLER,
U.S. Senate.

DEAR SENATOR PRESSLER: Secretary Shultz has asked me to respond to that portion of your letter of March 10 which deals with the draft United Nations "Guidelines for Consumer Protection."

I am pleased to enclose answers to the specific questions which you asked. If you wish additional details from the Department of State, your staff should contact William Brew, Special Assistant for Legislative, Consumer and Public Affairs, Bureau of Economic and Business Affairs; Telephone: 632-9310.

Sincerely,

ALVIN PAUL DRISCHLER,
Acting Assistant Secretary for Congressional Relations.

With respect to the draft U.N. Guidelines for Consumer Protection now pending before the Economic and Social Council, please answer the following questions separately:

Q(*a*): What is the present position of the United States on these Guidelines, and how was that decision arrived at?

A: The general approach of the comments on the Guidelines, which were delivered to the U.N. Secretariat on March 25, is recognition of the importance of the goal of consumer protection both domestically and internationally, but skepticism that the Guidelines are the best or only means of achieving that goal. Our comments dealt with every section of the Guidelines, opposing some concepts, approving of others, and raising questions about the remainder. Copies of the Guildelines and the March 25 comments are enclosed.

The comments were developed on an interagency basis, with each agency commenting on sections of interest to it at meetings or in writing. Each agency was provided copies of public (usually trade association) comments that had been received. The State Department served as the "secretariat" for this interagency process, drafting the comments on the basis of the views expressed.

Q(*b*): What evaluations were made with respect to the effect of the Guidelines, if implemented worldwide, on the export of agricultural commodities?

A: No econometric or analogous analysis of the potential impact of the Guidelines on exports of agricultural commodities was attempted. The draft Guidelines focus, in part, on food products and national food policies and, except for one significant exception, speak in fairly general terms; portions of the Guidelines were reviewed for consistency with U.S. policies in similar areas. The exception is a reference to highly processed foods; as can be seen from the enclosed comments, the negative reference to such foods (which might be interpreted as meaning value-added agricultural commodities) was not accepted. Our opposition is based on the desirability of freedom of choice for consumers.

Q(*c*): What groups and members of Congress were given an opportunity to comment on the proposals for national legislation on these Guidelines and what positions did they take on the provisions that might affect or influence American export policy or practices?

A: Development and assembly of the U.S. comments on the Guidelines was coordinated by the U.S. Office of Consumer Affairs (USOCA), in cooperation with the Department of State. Mrs. Virginia H. Knauer, Special Assistant to the President, is Director of the USOCA and serves as the U.S. representative to the Committee on Consumer Policy of the Organization for Economic Cooperation and Development (OECD). Coordination of our comment on the Guidelines was approached in three ways:

(1) A Federal Register notice was published on December 3, 1982 (Federal Register, Vol. 47; No. 233, page 54556; copy enclosed) explaining that comment was being sought on the Guidelines and that copies were available upon request. Copies were supplied to any party which requested them. At least 15 requests were received as a result of this notice.

(2) Copies of the Guidelines were provided to, and comments sought from, broadly-based trade associations and consumer organizations such as the U.S. Council for International Business, the National Association of Manufacturers, the National Consumers League, and Consumers Union.

(3) Federal agencies were asked for comments. Specifically interested agencies provided their comments through two meetings under the auspices of Mrs. Knauer and through written and oral comment.

All comments received from individuals and groups were considered during the preparation of the U.S. comments to the U.N. Copies of the comments received from nongovernmental sources are enclosed. In general, both governmental and private sector comments reflected concern that the Guidelines not be used to permit the development of unnecessary barriers to trade.

Q(*d*): What is the basis for singling out "highly refined and expensive food products" for special attention by the world's regulators? See Guideline 7(e).

A: We are unaware of the specific basis for including this reference to "highly refined and expensive food products." However, the proposed guideline is similar in tone to many of the arguments in favor of the "Infant Formula" marketing code, approved by the WHO in 1981. The argumentation implies that developing countries, or poor people, do not need to be offered expensive products, which they cannot afford, or products of less than optimal nutritional value. Our comment on this guideline is negative.

Q(*e*): What specifically is meant by suggesting that all governments should have policies and plans providing for "processing and distribution and should include mechanisms for appropriate activity in the case of seasonal fluctuation in food supply and prices"? See Guideline 7(a).

A: Presumably what is intended is the promotion of a government-sponsored method of storage of food supplies to be used in cases of shortage. What is meant

by a plan for processing and distribution is less clear. It could mean plans for ensuring that food is available at all times, such as the milk marketing orders and support prices for commodities. It could, however, also mean governmental control over the distribution and processing systems, a position which the U.S. should oppose.

Q(*f*): When are these Guidelines scheduled to be considered by ECOSOC, and is it possible for us to have that consideration postponed if it is scheduled to be within the next six months?

A: The Guidelines are to be considered at the next meeting of ECOSOC, currently scheduled for July 1983, in Geneva. The discussions will be based on a U.N. Secretariat report currently in preparation; we understand this report will consist of four parts: a history of U.N. involvement in consumer protection issues, the Guidelines (revised from the version on which comments were made), a summary of the Guidelines, and a summary of the comments made by member states. It is unlikely that the Guidelines could be removed from ECOSOC's summer agenda, but it is conceivable that ECOSOC will not take any final action but rather delay such a decision pending either further comments or the holding of an intergovernmental meeting.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., April 15, 1983.

HON. GEORGE P. SHULTZ,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I am disappointed by recent correspondence with your Department. On March 10, 1983, I sent to you a request for answers to five questions relating to the alarming increase in attempts at the United Nations to control our international trade, especially the export of agricultural products. I have not received answers to four of these questions, and the April 1, 1983 answers to the fifth question were substantively disturbing. This letter is to request answers to my original four questions by May 16 and to ask some follow-up questions inspired by the answers that I did receive for the fifth question. My previous letter to you has been inserted in the Congressional Record, and I will also be putting your Department's response and this letter in the Record.

The answers that I received related to the so-called Consumer Protection Guidelines pending before the United Nations Economic and Social Council. Despite the fact that these Guidelines expressly will affect our country's domestic and foreign commerce, I am shocked to learn from your Department's letter to me that no one in Congress was consulted before the position of the United States was taken at the U.N.

Apparently, only trade associations, consumer groups and other federal agencies were directly consulted, and a notice was published in the Federal Register. Section 8 of Article I of the Constitution provides that Congress has the exclusive jurisdiction to regulate domestic and foreign commerce. The Guidelines include principles, the endorsement of which would be a statement of our nation's policy on how our commerce should be regulated. At the least, a proposal of such magnitude deserves to be brought to the direct attention of legislators who serve on Committees with oversight responsibilities for domestic and international commerce.

The Department's response to my fifth question raised the following related questions for which I would appreciate receiving answers by May 16, as well:

(1) What comments were made by government sources?

The Department's reply encloses copies of the comments of nongovernmental organizations that were considered in formulating the position of the United States on the proposed Consumer Protection Guidelines. It mentions that federal agencies provided input "through written and oral comments" in two meetings. Please provide copies of the written comments and a complete set of the notes and other memorializations made of any meetings or conferences on this subject. Please take care to identify who from each agency commented, the content of their comments and how they determined their positions.

(2) What methods of analysis were used?

In determining what our country's position should be on the proposals that would affect regulation of our commerce, what are the established procedures, if any, for determining potential costs and benefits? For example, are procedures for evaluating proposed regulation of commerce by the federal government, such as those in Executive Order 12291, used? If not, why not?

(3) What is the status of the Guidelines, and can consideration be postponed?

When are the proposed Consumer Protection Guidelines expected to be considered by ECOSOC and is that consideration likely to result in a vote on adoption? If so, what are the procedures for the United States to withdraw its comments and request postponement of any vote on the Guidelines until Congress or interested legislators have had a reasonable opportunity to determine what position this nation should take?

I look forward to your Department's prompt attention to these matters.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

[From the Congressional Record, Mar. 22, 1983]

UNITED NATIONS CONSUMER GUIDELINES

Mr. PRESSLER. Mr. President, I recently wrote to Secretary of State George P. Shultz concerning proposed United Nations consumer protection guidelines.

Given the importance of this topic to American agriculture and to others involved in the U.S. food industry, I ask that a copy of my letter including questions I have posed to the Secretary be printed in the record.

There being no objection, the material ordered to be printed in the record, as follows:

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., March 10, 1983.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In anticipation of Administration testimony before my Foreign Relations Subcommittee on Arms Control, Oceans, International Operations and Environment, I have prepared the enclosed questions on an area of specific concern to me. I very much would appreciate receiving written answers to these questions by March 25, 1983. I wish to study that matter more closely and ensure that we have an informed discussion prior to the hearings.

My concern relates to the effects—especially on American exports—of the veritable explosion of United Nations regulatory activity. One of my reference points is Ambassador Jeane J. Kirkpatrick's excellent article on "Global Paternalism" in the current issue of Regulation magazine. She clearly demonstrates that increasing numbers of U.N. regulations are being used in an open attempt to unfairly redistribute the wealth of industrialized and agriculturally abundant countries such as ours.

I am concerned especially about one of the new regulatory efforts at the United Nations, the proposed worldwide Consumer Protection Guidelines now pending before the U.N. Economic and Social Council. I am troubled by the effects of this proposal on American exports, particularly agricultural commodities.

I look forward to hearing from you by March 25, and I appreciate your thoughtful consideration of these issues.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

QUESTIONS REGARDING UNITED NATIONS ACTIVITIES

1. What organizations (a) within the United Nations (e.g., Economic and Social Council) and (b) directly or indirectly related to the United Nations (e.g., Food and Agricultural Organization) take action to affect or influence American export policies or practices?

2. For each of the above-described organizations, please list the following, using the most current data available:

(a) Nations considered to be members or participants of the organization;

(b) Amount of contributions of funds of each member nation or participant, together with a calculation of the percentage of total contributions that each such contribution represents;

(c) Number of United States government staff members who are employed to work with or at the organization;

(d) the funds allocated in the United States Budget for our activities associated with each organization.

3. What regulations, guidelines, or other similar actions designed to affect or influence American export policies or practices have been proposed and/or promulgated by each of the above-described organizations since January 1, 1980, and what is or was the position of the United States on each?

4. With respect to each of the matters described in Question 3, what procedures were used to afford potentially affected groups, industries and interested members of Congress an opportunity to make recommendations as to what position the United States should take?

5. With respect to the Draft U.N. Guidelines for Consumer Protection now pending before the Economic and Social Council, please answer the following questions separately:

(a) What is the present position of the United States on these Guidelines, and how was that decision arrived at?

(b) What evaluations were made with respect to the effect of the Guidelines, if implemented worldwide, on the export of agricultural commodities?

(c) What groups and members of Congess were given an opportunity to comment on the proposals for national legislation on these Guidelines and what positions did they take on the provisions that might affect or influence American export policy or practices?

(d) What is the basis for singling out "highly refined and expensive food products" for special attention by the world's regulators? See Guideline 7(e).

(e) What specifically is meant by suggesting that all governments should have policies and plans providing for "processing and distribution and should include mechanisms for appropriate activity in the case of seasonable fluctuation in food supply and prices"? See Guideline 7(a).

(f) When are these Guidelines schedule to be considered by ECOSOC, and is it possible for us to have that consideration postponed if it is scheduled to be within the next six months?

U.S. DEPARTMENT OF STATE,
Washington, D.C., April 8, 1983.

HON. LARRY PRESSLER,
U.S. Senate.

DEAR SENATOR PRESSLER: I am responding to your letter to Secretary Shultz of March 10, 1983, requesting information regarding regulatory activities of those U.N. organizations, and organizations related to the United Nations, which influence American export policies or practices. As Ambassador Kirkpatrick noted in her article in "Regulation," the United Nations in recent years has been the locus for debate on a broad array of resolutions pertaining to international economic relations.

Many resolutions proposed by the Group of 77 are variations on the general economic development philosophy of the New International Economic Order. A large number of such resolutions were proposed at the 36th and 37th U.N. General Assembly and opposed by the United States because they state what we believe are erroneous theories on the causes of economic underdevelopment and the responsibiiities of industrialized countries, or because they have unacceptable budgetary implications. Because these resolutions embody a statement of principle having no legally binding force, we believe it is unlikely that they have negative impact on U.S. export policies or practices.

A second category of U.N. activities consists of efforts to establish internationally agreed codes of conduct for those engaged in international commerce—for example, the Consumer Protection Guidelines being developed in ECOSOC, the draft treaty on illicit payments, and the Code of Conduct on Transnational Corporations. The United States has joined in some of these efforts when we believed they were compatible with our interests and practice, and opposed others. In all cases, we have joined in vigorous negotiations aimed at producing an acceptable final product. These efforts in ECOSOC are discussed in Enclosure 1.

A third set of activities involves various specialized organs of the U.N. systems. These activities include some which the United States has supported as

desirable to facilitate economic cooperation and trade and others which we oppose because of their incompatibility with the U.S. economic system or their adverse effect on U.S. economic interest.

The major U.N. and U.N. related agencies in the field of trade include UNCTAD and GATT. Others whose activities have touched upon codes or regulations that had implications for American export interests include such organizations as the International Maritime Organizations, the U.N. Environmental Program, the Food and Agricultural Organization, the World Health Organization, and the World Intellectual Property Organization. A discussion of these organizations is enclosed. This discussion is not intended to be an exhaustive analysis of all agencies which perform functions relating to regulation, but rather illustrative of the kinds of activities in which specialized U.N. agencies are involved. Information on membership, budgets and assessments is included in the enclosed 30th Annual Report to the Congress on United States Contributions to International Organizations.

Responses to your questions regarding the draft U.N. Guidelines for Consumer Protection were contained in a separate letter.

Sincerely,

ALVIN PAUL DRISCHLER,
Acting Assistant Secretary
for Congressional Relations.

Enclosure: As stated.

ENCLOSURE: DISCUSSION OF U.N. REGULATORY ACTIVITIES

ILLICIT PAYMENTS

The United Nations failed to make any progress on the illicit payments issue in 1982. At the August 30–September 11 meeting of the Committee on Transnational Corporations Working Group on the Code of Conduct for Transnational Corporations, the developing countries continued to insist upon linking the resolution of the illicit payments issue with the adoption of the Code. Thus, even though an ECOSOC committee completed a largely unbracketed draft treaty on illicit payments in 1979, a diplomatic conference to conclude that agreement could not be convened.

The adoption of a treaty on illicit payments would impel the worldwide application of restrictions similar to those that the United States now enforces against such payments. Lack of U.N. action on that issue is detrimental to U.S. interests because it perpetuates the existence of a competitive disadvantage under which U.S. exporters now do business.

UNCTAD

UNCTAD is one of the principal organs of the United Nations General Assembly concerned with discussion of trade and economic development issues between developed and developing countries. The Conference is the UNCTAD governing body and is convened every 3 to 4 years. The Sixth Session of the Conference, UNCTAD VI, is scheduled to take place in Belgrade, Yugoslavia, from June 6–30, 1983. The first such Conference was held in Geneva, Switzerland, the headquarters of UNCTAD; the second in Santiago, Chile; the third in New Delhi, India; the fourth in Nairobi, Kenya; and the fifth in Manila, Philippines.

General Assembly Resolution 1995 (XIX) established UNCTAD on December 30, 1964. The members of the Conference are those states which are members of the United Nations, its specialized agencies and the International Atomic Energy Agency. At present there are 166 countries which are members of the Conference and 124 of the Trade and Development Board (TDB). The Trade and Development Board, UNCTAD's executive body, meets biannually and reports to the Conference. The TDB reports annually to the U.N. General Assembly through the Economic and Social Council.

The United States has voted against the provisional agenda for UNCTAD VI. This step was unprecedented and gave rise to various speculative theories regarding the U.S. position. The U.S. vote was variously interpreted as (1) a delaying tactic, (2) a desire for a radical restructuring of UNCTAD, and (3) a U.S. desire to destroy UNCTAD. In fact, the United States desires to have UNCTAD function as it was intended, i.e., to deal realistically with concrete problems of

trade and development in the developing world. UNCTAD veered off that course in recent years, becoming a platform for North-South confrontation and polemics. The United States wants UNCTAD to deal with issues and problems of trade and development as originally intended.

Our principal objection was to omissions from the agenda of language and issues in line with U.S. objectives in the trade and development fields as enunciated by the President at Cancun.

For example, we want UNCTAD VI to discuss issues, whose purpose would be to:

Stimulate international trade by opening up markets, both within individual countries and among countries;

Tailor particular development strategies to the specific needs and potential of individual countries and regions;

Guide our assistance toward the development of self-sustaining productive activities, particularly in food and energy;

Improve the climate for private capital flows, particularly private investment; and

Create a political atmosphere in which practical solutions can move forward, rather than founder on a reef of misguided policies that restrain and interfere with the international marketplace and foster inflation.

INTEGRATED PROGRAM FOR COMMODITIES

International commodity policy remains a key issue to U.S. foreign economic relations in 1983, particularly with respect to relations with the developing countries. Under the framework of the UNCTAD Integrated Program for Commodities (IPC) ongoing discussions have been carried out across a broad range of individual commodities; the 18 commodities covered include natural rubber, copper, cocoa, sugar, tropical timber, jute, tea and cotton. The Integrated Program also produced agreement in 1980 on a Common Fund to facilitate buffer stock financing for suitably structured commodity agreements. The United States signed the Common Fund Agreement in November 1980. The agreement has not been considered for ratification, however, since a sufficient number of countries have not joined. The United States is a member of current international commodity agreements covering sugar, coffee and natural rubber. The United States has decided not to adhere to the new International Cocoa Agreement and the Sixth International Tin Agreement, since these agreements do not adequately balance producer and consumer interests.

COMMON FUND

Agreement to establish the Common Fund for Commodities was reached at the Fourth Session of the U.N. Negotiating Conference meeting in Geneva June 5–7, 1980. The United States participated with over 100 governments in the final negotiations and signed the agreement in New York in early November 1980.

The Fund Agreement concluded 4 years of difficult negotiations on a key element in relations between developed and developing countries. Its First Account would pool resources of International Commodity Agreements (ICAs) to facilitate the financing of buffer stocks to stabilize prices. A Second Account funded by voluntary contributions, would finance commodity research and market development measures. First Account operations are to be backed by direct contributions from governments amounting to an anticipated $400 million, to be used only to enhance the Fund's creditworthiness, provide working capital for short term bridging purposes, and to meet administrative expenses. The share of the direct contributions would total $73.85 million in cash and promissory notes due in installments over 3 years after the Common Fund Agreement came into effect. The United States does not plan a voluntary contribution to the Second Account.

INTERNATIONAL SUGAR ORGANIZATION

The International Sugar Organization (ISO), with headquarters in London, is the principal forum for dealing with the international sugar trade. It has administered the International Sugar Agreement since 1937. Negotiations were completed in 1977 for a new ISA. However, delays in ratification caused the United States to participate only as a provisional member until April 2, 1980, when by unanimous consent, the Senate passed the implementing legislation.

As a result of International Sugar Organization Council decisions in March and November of 1980, the Agreement's price range has increased by two cents over its original 1977 level. At present the Agreement is intended to stabilize the world price of sugar between a 13-cent per pound minimum and a 23-cent maximum through a coordinated worldwide system of national stocks and export quotas. The ISA protects the interests of consumers by establishing a reserve stocks system under which 2.5 million tons of sugar is set aside and held in exporting countries for release when prices pass ceiling levels. The Agreement's price range is expected to encourage sufficient investment to avoid sharp reduction in supplies and concomitant price increases. At the November 1981 Council meeting, ISO members decided in principle to extend the ISA for 2 years, i.e., through 1984, and to discuss possible accession to the Agreement by the European Community. This decision notwithstanding, ISO members decided at the November 1982 Council meeting to renegotiate the ISA in May 1983 with the objective of bringing a new ISA into force by January 1984.

The Agreement has been viewed as consistent with the broad foreign policy objectives of the United States and with the intent to balance the interests of producing and consuming countries through international cooperation. Our membership can also complement our own domestic price support programs for sugar. The Agreement's price stabilization provisions are intended to assist a number of developing countries whose economic growth can be seriously affected by sharp fluctuations in the price of sugar.

UNCTAD COMMITTEE ON SHIPPING

In 1982 the activities of UNCTAD's Committee on Shipping were marked by continued work on the issue of open registry shipping. Pursuant to Resolution 43 (S–III), UNCTAD convened an Intergovernmental Preparatory Group (IPG) on the conditions for registration of ships to formulate basic principles, which a future U.N. Conference on Plenipotentiaries would incorporate into an international convention on the subject. Resolution 43 (S–III) was adopted over the objections of developed countries (Goup B). The United States decided to boycot the meetings of the IPG and unsuccessfully urged other Group B members not to attend.

The IPG met twice last week without coming to any agreement on principles acceptable to all sides. The differences centered on proposals to require minimum levels of manning, management, and equity ownership of vessels by flag-state nationals as a condition of registry.

General Assembly Resolution 37/209, adopted in December 1982, requests UNCTAD to convene a Preparatory Committee late this year in order to continue work on the basic principles. The U.N. Conference has been moved to 1984.

At its last session in June 1982, the UNCTAD Committee on Shipping decided to establish an independent group of experts to study the sea trades in liquid hydrocarbon products. Under the terms of Resolution 48 (X), the group will meet twice to draw up and analyze replies to a questionnaire distributed to major shippers and carriers. The group will use the replies and other relevant information to determine whether shipping companies from developing countries are able to compete freely and fairly in the trades of these commodities.

At the same meeting, the Committee on Shipping also decided in Resolution 49 (X) to establish an Ad Hoc Intergovernmental Group to combat maritime fraud. The group is to meet in 1983 and submit its recommendations to the UNCTAD Trade and Development Board. Group B abstained on the vote to adopt the resolution, after observing that the International Maritime Organization had recently completed work on the subject.

The Working Group on International Shipping Legislation met for its ninth session in February 1983. Delegates continued work on model hull insurance clauses and engaged in a preliminary exchange of views on marine cargo insurance. This last topic will take up most of the next session. However, Group B took a firm stand opposing a proposed agenda that they believed would duplicate work on liens and mortgages by the International Maritime Organization. To avoid a vote, the final plenary decided not to adopt a provisional agenda for the next session. UNCTAD officials have been in contact with the International Maritime Organization to delineate respective areas of competence.

TRANSFER OF TECHNOLOGY CODE

U.N. Conferences on a Transfer of Technology (TOT) Code have taken place over the last several years. About three-quarters of the text of a proposed TOT

Code is agreed, but the most difficult issues remain unresolved. These include corporate parent/subsidiary relationships, the binding of voluntary nature of the Code, its applicability to intra-state transactions, and the nature of the obligations to be undertaken by private parties to technology transfer, in particular licensing contracts. The United States can support a voluntary code which will promote the transfer of technology on a mutually beneficial basis consistent with sound commercial practice.

The most recent negotiating conference on the proposed UNCTAD Code of Conduct on the Transfer of Technology (TOT) took place March 23–April 10, 1981. Little progress was achieved at that Conference toward resolving the serious outstanding issues in the Code. At its conclusion, the Conference decided to transmit the draft Code to the United Nations General Assembly for appropriate further action, including the possible reconvening of the U.N. Conference on the TOT Code.

On December 16, 1981, the U.N. General Assembly passed Resolution 36/140 which established an Interim Committee which met for 4 weeks during 1982 to seek solutions to the outstanding issues. It is important to note that the Interim Committee was not a negotiating body. On December 7, 1982, the U.N. General Assembly took note of the work of the Interim Committee and requested the Secretary General of UNCTAD to covene a fifth session of the TOT Code Conference, which is tentatively scheduled for the fall of 1983.

U.N. CONFERENCE ON RESTRICTIVE BUSINESS PRACTICES

Following more than 10 years of deliberations in the United Nations, the U.N. Conference on Restrictive Business Practices successfully concluded in 1980 negotiations of a set of voluntary guidelines to deal with restrictive business practices in international trade. The Conference adopted these guidelines on April 22, 1980, and the General Assembly unanimously adopted the text in Resolution 35/63 of December 5, 1980.

The officially termed "Set of Mutually Agreed Equitable Principles and Rules on the Control of Restrictive Business Practices," is designed to reduce restraints of trade by private and state-owned enterprises. It thus complements efforts under the General Agreement on Tariff and Trade (GATT) to minimize government trade and tariff restrictions. The United States believes that the Principles and Rules, embodying pro-competitive, free market concepts, can promote fair competition in international trade. These recommendations should enhance the ability of all countries to deal with restrictive business practices. In addition, the Principles and Rules call on states to provide fair and equitable treatment for all enterprises on the same basis. This provision should be of value to U.S. businesses in their relations with foreign governments.

The Set of Principles and Rules also contains several follow up activities. First, it establishes an Intergovernmental Group of Experts to continue work on anti-trust subjects within the United Nations. This group will emphasize assistance to countries seeking to develop or improve their own restrictive business practice laws. The Group met for the first time in November 1981—its second meeting was postponed until the fall of 1983. Second, UNCTAD and other relevant U.N. bodies will continue their publications and technical assistance programs. Third, work will be continued "within UNCTAD on the elaboration of a model law or laws on restrictive business practices." Finally, a multilateral conference under the auspices of UNCTAD will be held in 1985 "for the purpose of reviewing" the Set of Principles and Rules.

GENERAL AGREEMENT ON TARIFFS AND TRADE

The General Agreement on Tariffs and Trade (GATT) is not a part of the U.N. system, but it was created at a U.N.-sponsored conference. GATT also cooperates with U.N. organizations where appropriate. For example, the GATT Contracting Parties and UNCTAD jointly operate an International Trade Center to assist developing countries in promoting their exports.

The General Agreement is an international agreement which entered into force in January 1948. The United States has been a party to the GATT since its inception. Eighty-eight countries accounting for more than four-fifths of world trade are now members of GATT. An additional 31 countries have either acceded provisionally or maintain a de facto "application" of the GATT.

GATT is the principal multilateral instrument through which the United States is working to improve the world trading system. It is both a code of rules and a forum in which negotiations and other trade discussions take place.

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The most recent of the seven multilateral rounds of trade negotiations under GATT auspices was the Tokyo Round, launched in September 1973 and completed in 1979. In addition to tariff reductions, now being phased in by the participating countries, for the first time the Tokyo Round produced agreement on rules of conduct in non-tariff areas. Codes on subsidies and countervailing duties, technical barriers to trade, (standards) import licensing procedures, anti-dumping, and trade in bovine meat, in dairy products, and in civil aircraft all went into effect in January 1980. The codes covering government procurement and customs evaluation went into effect at the beginning of 1981. GATT's work program adopted in November 1979 gives first priority to implementing the Tokyo Round results, and Committees have been established to administer each of the Code agreements.

GATT plays a major role in the settlement of trade disagreements between member countries. As in past years, several such matters involving U.S. trade were considered under GATT provisions in 1982.

In November 1982 the Contracting Parties met at the Ministerial level for the first time in nearly 10 years. The depressed worldwide trade and economic situation created a climate in which the United States felt it was particularly important to move forward with new initiatives as well as the advancement of unfinished business from the Tokyo Round, Changing patterns of world trade, with the growing importance of services trade, and the success of prior tariff-cutting efforts, made it particularly important in our view that the GATT take steps to address the emerging issues of the 1980's. The GATT Ministerial was not an easy meeting, but even though its progress was less than we had hoped, it moved forward in important areas. Implementation of the work program authorized by the Ministerial will continue through 1983 and beyond, and we expect over time to make considerable progress in areas of major importance. These include implementation of the political declaration, which calls for resistance to protectionism, through achievement of a safeguard understanding; agriculture; developing country concerns, which can in part be addressed through North/South negotiations increasing market access in both directions; services; and trade in high technology goods.

WORLD INTERNATIONAL PROPERTY ORGANIZATION

The World Intellectual Property Organization (WIPO) was established by a Convention signed at Stockholm in 1967 which entered into force on April 26, 1970. The United States is a party to the Convention. WIPO is the principal worldwide organization responsible for promoting the protection of intellectual property which comprises two elements: copyrights (mainly literary and artisic works) and industrial property (mainly patents on inventions, trademarks, and industrial designs). WIPO is also responsible for the administration of some 15 intergovernmental "Unions," each founded on a multilateral treaty. The two principal treaties are the 1883 Paris Convention for the Protection of Industrial Property, which has 92 parties, and the 1886 Berne Convention for the Protection of Literary and Artistic Works, which has 74 parties. The United States is a party to the former Convention, but not the latter.

Other WIPO-administered intellectual property treaties to which the United States is a party are the Patent Cooperation Treaty, the 1957 Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, the 1971 Strasbourg Agreement Concerning the International Patent Classification, the 1971 Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Programs, and the 1977 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedures.

Membership in WIPO is open to any state that is a member of the Paris or Berne Unions, or of the United Nations or its specialized agencies, or which is invited to become a member by the WIPO General Assembly.

One of the two basic objectives of WIPO is to promote the protection of intellectual property on a worldwide basis. In support of this objective, WIPO encourages the conclusion of new international treaties and the harmonization of national laws; it gives legal-technical assistance to developing countries; it assembles and disseminates information on intellectual property; it maintains international registration services in the fields of trademarks, industrial designs, and appellations of origin, and it performs the administrative tasks for an international patent filing arrangement.

The second basic objective of WIPO is to insure administrative cooperation among the Unions. Centralizing the administration of the various Unions in the International Bureau helps insure economy both for the member States and for the private sector concerned with intellectual property.

In 1982 the United States continued its active participation in the work on revision of the Paris Convention for the Protection of Industrial Property, the most important multilateral treaty in this field. The first session of the Diplomatic Conference was held in February/March 1980 in Geneva. The Conference bogged down in attempting to resolve the question of the voting majority for adoption of a revised text of the Paris Convention. Following an almost month-long discussion, voting rules were adopted over the objection of the United States in the concluding days of the Conference.

The Developing Countries (Group of 77), supported by the Socialist countries (Group D), had announced that they wanted a two-thirds majority for adoption of the revised text of the Paris Convention. The compromise finally adopted, with the United States the only dissenter, calls for the final text to be adopted by consensus, that is, without objection; but, if no consensus is reached, a two-thirds majority will be sufficient, provided no more than 12 members vote against. The United States protested the adoption of this rule by less than a unanimous vote and formally reserved its legal right to challenge the validity of any substantive action under the Rules of Procedure, particularly the adoption of a revised text, by less than a consensus.

In the final Plenary session on March 4, 1980, the Conference adopted a decision which requested a special meeting of the Paris Union Assembly in September at the same time that other WIPO Administrative Bodies were scheduled to meet, to make arrangements for a continuation of the Diplomatic Conference at the earliest possible date in 1981. The Paris Union Assembly, in an extraordinary session in September 1980, agreed that the second session of the Diplomatic Conference would be held in Nairobi in the latter part of 1981 and that an enlarged contact group meeting would be held in the Spring of 1981 to attempt to resolve two major substantive issues prior to the second session of the Diplomatic Conference. In the enlarged contact group meeting of 10 members from each of the three regional groups, one week of discussion was held on each of two substantive topics with no further agreement being achieved.

In the opening of the second session of the Diplomatic Conference, held in Nairobi in September /October 1981, the United States again noted its opposition to the adoption by less than a unanimous vote, of a voting rule providing for less than a unanimous vote to adopt a revised text which evolved.

Almost all of the second session was spent attempting to resolve the issues regarding sanctions for not working a patented invention in a given country. The Group of 77 wanted to have greater discretion in the nature of the sanctions developing countries could apply and they wanted developing countries to be able to apply the sanctions sooner. Group B preferred limiting the sanctions which were available and giving inventors more time to work their inventions before sanctions could be applied. In addition, some Group B countries felt that any relaxation in the nature of sanctions or in time limits should be available to any country and not only developing countries. The majority of Group B countries felt that any relaxation in existing requirements should be available only to developing countries. At the conclusion of the 4-week session a revised text on the sanction matter alone was informally agreed to with only the United States objecting. The United States objection was direced primarily against the confiscatory nature of two sanctions which a developing country could apply for situations involving the non-working of a patented invention. Further discussion on this matter, as well as on other matters which were only summarily discussed in the second session, was deferred to the third session, which was held in the fall of 1982.

The third session was held for 4 weeks in October and 1 week in November 1982. By general agreement the contentious issue of sanctions for failure to work a patent was not on the agenda. The third session concentrated in its first 4 weeks on trademark issues having to do with the use of geographical names to identify products. In view of strong European positions on these issues, it was not possible to reach final agreements on them. A fifth week of the third session was held in November. During this last week of the third session, continued discussions on ways of resolving the problem of sanctions for non-working of

patents were held with the expectation that they would be continued in a fourth session of the Conference.

A fourth session of the Conference to revise the Paris Convention has been scheduled in early 1984.

INTERNATIONAL MARITIME ORGANIZATION

Since its inception in 1958, the International Maritime Organization's main objective has been to facilitate cooperation among governments on technical matters affecting international shipping as a means of achieving the highest practicable standards of maritime safety and efficiency of navigation. The Organization has a special responsibility for safety at sea and for the protection of the marine environment through prevention of pollution of the sea caused by ships and other craft. IMO also deals with legal matters connected with international shipping, with the facilitation of international maritime traffic, and is responsible for providing technical assistance in maritime matters to developing countries.

IMO accomplishes its work through various forums; the Assembly, consisting of the full membership; the Council, with a membership of 24; the Maritime Safety Committee (MSC); the Marine Environment Protection Committee (MEPC); the Legal Facilitation and Technical Cooperation Committees; and various technical subcommittees of the MSC and the MEPC. Each of the committees consists of the full membership of the Organization. Proposals initiated in subcommittees, and proposals of the committees are reviewed by the Council and referred to the Assembly for final approval. Major conventions are elaborated and adopted by plenipotentiary conferences.

The Marine Environment Protection Committee (MEPC) held its 17th session, June 21–25, 1982. As it appeared that the 1973 Convention for the Prevention of Pollution from Ships and its 1978 Protocol (MARPOL 73/78) would be ratified within months, the Committee concentrated on resolving items necessary for MARPOL implementation. This included approval of the final formats of the International Oil Pollution Prevention Certificate and Oil Record Book as well as work on Control Procedures.

On October 2, 1982, the final requirements for ratification and acceptance of MARPOL 73/78 were met. The Convention will enter into force October 2, 1983. During 1982, IMO Published a Circular distributing proposed amendments and interpretations to MARPOL. The Committee had agreed at the 15th session, to accept ships built in conformance with these changes as being equivalent to the provisions of the Convention. This was considered necessary for effective Convention implementation. Formal amendment procedures will begin after the Convention enters into force and will probably result in entry into force of the amendments by late 1985. At MEPC's 18th session, which will meet March 22–25, 1983, efforts will be directed toward approving final implementation details of MARPOL, such as: Control Procedures, Survey Requirements and Uniform Interpretations.

Three Sessions of the Legal Committee were held in 1982 (47th, 48th and 49th). At its 47th session (February 22–26) the Committee completed most of its work on draft articles for the proposed Convention on Liability and Compensation in Connection with the Carriage of Noxious and Hazardous Substances by Sea. The matters which remain concern: (1) the preparation of the "final clauses" to the draft Convention, (2) the determination of the situations in which the shipper will be required to maintain financial security to cover his liability under the draft Convention, and (3) the preparation of the Annex which will include the list of substances to be covered by the draft Convention. At this session the Committee also decided to defer the question on the preparation of draft articles on liability and compensation in connection with fire and explosion damage on board all tankers.

The Committee devoted its efforts at its 48th (March 1–5) and 49th (October 4–8) sessions to the consideration and preparation of draft instruments to revise the 1969 Civil Liability and 1971 Fund Conventions. Those Conventions concern liability and compensation relating to tanker-source oil pollution. The questions examined by the Legal Committee included: (1) the ships and oils to be covered by the revisions and their geographical scope, (2) the levels of liability limitation and other matters relating to the shipowner's liability, including an expeditious means of updating those limitation levels; and (3) the mechanism by which the revised instruments will replace those which are

currently in office. During this session the Committee had before it draft articles prepared by an informal working group which met in London during June.

It is anticipated that the draft articles prepared by the Legal Committee (on the subjects addressed during these three sessions) will be submitted to a diplomatic conference devoted to these subjects to be held during the spring of 1984.

MARITIME SAFETY COMMITTEE

The Maritime Safety Committee (MSC) held its 46th session March 29-April 2, 1982 and its 47th session September 13–17, 1982. The United States was represented at both sessions and U.S. objectives generally were met.

At the 46th Session, the United States agreed to a proposal to postpone considering the second set of amendments to the 1974 Safety of Life at Sea (SOLAS) Convention until the 47th session. The remainder of the 46th session was taken up with the routine business of the Committee.

The 47th session of the MSC was unique in its format, being predominantly a single issue meeting which addressed the second set of amendments. These amendments will substantially contribute to the safety of seafarers due to major advances in the Life Saving Appliances Chapter of the SOLAR convention. The Committee is expected to meet again in June of 1983 to formally approve the amendments.

UNITED NATIONAL ENVIRONMENT PROGRAM

The United States is participating in negotiations being held under United National Environment Program (UNEP) auspices for the elaboration of a draft global framework convention for protection of the ozone layer.

Meetings are being held of the *Ad Hoc* Working Group of Legal and Technical Experts, and a draft text for a possible convention should be available in 1983.

The U.S. delegation is instructed not to accept draft text which would exceed present U.S. law and regulations controlling substances which could be taken to adversely affect the ozone layer. The U.S. delegation will support only generic general obligations and relevant references in the draft text that avoid any such conflict. Should this convention eventually enter into force, there should be no U.S. domestic regulatory impact.

It is possible further scientific research and monitoring may lead to a determination that further international controls are required on substances which modify or are likely to modify the ozone layer with adverse results. It is very unlikely that any foreseeable international controls would go beyond similar controls the United States already has in place domestically. Thus there should be no conflict.

To avoid any possible future conflict with U.S. law and regulations the United States is pressing for language in the proposed framework convention which would require any proposed controls be included as a separate protocol to the basic convention and that any such protocol be binding only on the individual States which accept it.

WORLD HEALTH ORGANIZATION

The World Health Organization (WHO) in 1982 continued work to define and implement its goal of "health for all by the year 2000" and adopted a new six-year plan to cover the years 1984–89. Through extended discussions with the pharmaceutical industry, new efforts were made to foster collaboration between industry, national governments," and WHO in implementation of a new Action Program on Essential Drugs.

Secretary Schweiker addressed the World Health Assembly in May, providing strong support for WHO's "health for all" initiatives. He also introduced a proposal, developed by the U.S. Centers for Disease Control, for a Global Epidemic Investigation System to be organized by WHO. Resources for the program would come primarily from participating countries. The Secretary also used the occasion of his visit to meet with WHO's Director General, Dr. Halfdan Mahler of Denmark; to conduct a meeting involving a leader of the U.S. pharmaceutical industry and WHO staff dealing with pharmaceuticals; to get briefings on WHO's programs in immunization, diarrheal diseases and human reproduction (all led by U.S. citizens); and to meet with health ministers from a number of other nations.

The Assembly adopted a new "plan of action" for implementation of the global strategy of attaining "health for all by the year 2000" (WHA35.23). The resolution, supported by the U.S. delegation and adopted unanimously, calls for specific action by the Director General of WHO, the six regional committees, and WHO member countries in order to hasten progress toward achievement of this broad goal. The resolution also asked the Director General to take the action requested of him by the United Nations General Assembly in resolution 36/43 to ensure collaboration of the entire U.N. system in this effort.

A representative of the International Federation of Pharmaceutical Manufacturers Association (IFPMA) addressed the January meeting of the WHO Executive Board regarding both the IFPMA interest in WHO's Action Program on Essential Drugs and its concern about various aspects of it and about reports of proposals that WHO develop a code of marketing practices regarding pharmaceuticals. WHO Director General Mahler welcomed the interest of the industry and initiated a new dialogue in which both industry and WHO representatives could frankly discuss their problems as well as advance efforts to provide essential drugs to the poorest countries at lowest possible cost. Mahler endorsed the view of U.S. delegates to thte Board that it would be counterproductive to WHO's interest in securing cooperation of the industry on the essential drugs program if WHO should in any way embark upon a new code.

Several meetings between WHO and industry were developed in the course of the year. Director General Mahler spoke to the IFPMA Assembly, held in Washington in June, and was generally believed to have allayed fears of any WHO effort to attempt to regulate the industry and to have stimulated interest in the Action Program on Essential Drugs. The World Health Assembly in May adopted a resolution endorsing the action program, and the Executive Board's ad hoc committee on drug policy continued its efforts to flesh out the program and hasten progress regarding the provision of drugs.

The 1982 Assembly also gave WHO authority to take out patents on products of research undertaken with WHO resources. The purpose of the new authority was to ensure that important technical developments, particularly in the fields of human reproduction and tropical diseases, would be made available for public use rather than lie unutilized for lack of public patents. There was considerable debate on the subject, with some delegations opposing the granting of this authority. The new patent policy was ultimately adopted by a vote of 87 (United States) to 0, with 4 abstentions (WHA35.14). The U.S. delegation supported the policy but made clear its views that the new authority was to be held used sparingly. The resolution requested the Director General to report on a regular basis regarding use of the authority to the Executive Board and the Assembly.

The infant formula code adopted by the World Health Assembly in 1981 was the subject of renewed discussion in 1982. In September 1982, the United States supplied a report to WHO, as requested of all member nations, regarding any steps taken in regard to issues raised by the infant formula code. This report noted that the U.S. Government had formally transmitted the code to U.S. manufacturers of infant formula, feeding bottles and nipples, along with U.S. Government perspectives on the code, and that the Department of Health and Human Services had established two task forces to address issues raised by the code in the U.S. domestic context. The U.S. transmittal of this report recommended that there be no effort to revise the code during 1983, as envisioned in the resolution by which the code was adopted in 1981; the transmittal argued that an effort to revise the code would unwisely reopen the extensive controversy that surrounded the code at the time of its adoption and generally not lead to constructive action. The WHO document issued later in the year showed that the Director General believed it inappropriate for a new effort to be undertaken to revise the code; he argued that, in light of only very brief national experience with the code, it would be premature to consider revising it.

The WHO compilation of national reports showed that in general a number of governments had implemented legislation, regulations or policies placing certain limitations on infant formula marketing practices, but that many of these had predated the adoption of the code. No country reported that it had adopted legislation implementing the code in its entirety; however, since the code was entirely voluntary, none was expected to do so.

In one other development during 1982, the Executive Board in January postponed for the second consecutive year action on the application of the Interna-

national Council of Infant Formula Industries (ICIFI) to obtain official non-governmental organization status with WHO, arguing that more time was needed to assess the work of the industry in relation to the code.

HARMFUL PRODUCTS

On the subject of international commerce in potentially hazardous substances, the Venezuelan delegation introduced a resolution at the summer 1982 session of the Economic and Social Council and in the U.N. General Assembly extended negotiations on the Venezuelan text took place over almost two months, but no consensus could be reached.

The Assembly ultimately adopted a resolution entitled "Protection Against Products Harmful to Health and the Environment" (37/137). The text, *inter alia*, requested the Secretary General to prepare and regularly update "a consolidated list of products whose consumption and/or sale have been banned, withdrawn, severely restricted or, in the case of pharmaceuticals, not approved by Governments," and to make the list available not later than December 1983. The resolution said that the list should contain both generic/chemical and brand names, the names of all manufacturers of the products addressed, as well as a short reference to the grounds and decisions taken by Governments that led to the "banning, withdrawal, or severe restriction" of those products. The resolution also said that the Assembly "agrees" that products banned from domestic consumption and/or sale because they have been judged to endanger health and the environment should be sold abroad by companies, corporations or individuals "only when a request for such products is received from an importing country or when the consumption of such products is officially permitted in the importing country."

The United States delegation, agreeing with the basic approach of the resolution, said it concurred with the point that each nation must be primarily responsible for protection of its own consumers, and said it supported efforts to strengthen the capacities of developing nations to make better informed judgments in the area of potentially harmful products. It said it agreed that countries with highly developed regulatory procedures should make available to all interested nations information on action taken to regulate products deemed harmful to health and the environment, and pointed out that the United States currently made available more information on regulatory action than any other U.N. member country.

Nevertheless, the delegation said it was concerned by categoric and unsubstantiated judgments in the text that the mere production and export of certain products are harmful to health and the environment, contentions which ignored the necessary balance of risks and benefits of use of these products under specific circumstances. The delegation also said it was troubled by a number of ambiguities regarding specific words in the text, such as "severely restricted" and "not approved," and suggested that the task of compiling a list would be essentially unmanageable unless the mandate was interpreted in a sensible and narrowly defined way. The delegation was also concerned that the resolution had been estimated to require additional funds from the United Nations budget. The delegation therefore proposed an amendment to require the tasks requested in the resolution to be carried out without additional resources. The Assembly rejected the amendment by a vote of 8 (United States) to 111, with 10 abstentions, and the full resolution was then adopted by a vote of 132 to 1 (United States), with no abstentions.

FOOD AND AGRICULTURE ORGANIZATION

The FAO is one of the largest U.N. specialized agencies with a regular 1982–83 budget of $368 million and extra-budgetary resources of over $600 million. The question of most relevance for U.S. export interests, the food security issue, was discussed in a number of meetings. In general, the FAO would like to move into the void created by a breakdown in the Wheat Trade Convention discussions and the related Food Aid Convention. The Director General of FAO has promised major initiatives in this area in 1983. U.S. policy is based upon the premise that food security and the Food Aid Convention should be dealt with in the Wheat Trade Convention negotiations.

Senator PRESSLER. In addition to the testimony we will receive from Ambassador Kirkpatrick and Dr. Weidenbaum, written testimony has

been submitted and I ask that it be included as an appendix to the hearing record.

With that, we will hear from Mrs. Kirkpatrick.

Let me say that I think we are on the verge of a very serious problem concerning our exports and world trade. Earlier this morning, in fact, I met with Ambassador Dobrynin on the issue of grain sales and the grain talks that are coming up in London. I said to him that I think all trade is going to be hurt by these U.N. regulations that are being developed by persons who have very little interest in trade. Their interest appears to be the promotion of a particular ideology.

I know that we have great disagreements and I did not find agreement from Dobrynin on this point. I foresee in the next 10 years a great impediment to international trade if we do not wake up to what is happening in the United Nations. These draft regulations have been proposed and they may be adopted by the United Nations without our acquisition. This will create a very serious situation.

I thank the Honorable Jeane Kirkpatrick for being here, and I would like to call on her for her opening statement.

STATEMENT OF HON. JEANE J. KIRKPATRICK, U.S. PERMANENT REPRESENTATIVE TO THE UNITED NATIONS, ACCOMPANIED BY MARC F. PLATTNER, ADVISOR ON ECONOMIC AND SOCIAL AFFAIRS

Ambassador KIRKPATRICK. Thank you, Senator Pressler. I am very pleased to be here and I would like to begin by saying that we, in the U.S. Mission to the United Nations, and the Bureau of International Organizations at the State Department, the Reagan administration, the permanent bureaucracy, I think, throughout the U.S. Government share your concern.

I am very pleased that the U.S. Senate and you, Senator Pressler, with the holding of these hearings have recognized and institutionalized your concern with the importance to our Nation of the growing proliferation of United Nations regulations.

As the U.S. business community is coming increasingly to realize, this is a matter of great importance to the whole American economy. It is also a matter of importance to the economic well-being of the world and to economic freedom and, indeed, freedom in the world.

The involvement of the United Nations in regulatory activities is not new. Many of the specialized agencies in the U.N. system have long been involved in areas affecting international commerce such as maritime safety, international air travel, patent and copyright protection, and the like. Some of this is very beneficial.

What is new is the extraordinary proliferation of U.N. regulatory initiatives in recent years. What is new especially is the growing politicization, the growing tendency to use regulation as an ideological weapon and a political weapon in world economic and political combat. In fact, this subject, as you know, I discussed at some length in my article on "Global Paternalism: The U.N. and the New International Regulatory Order," and I will recap some of the points I made in that article.

Senator PRESSLER. That was an excellent article and, with unanimous consent, we will place that in the record.[1]

[1] See page 31.

Ambassador KIRKPATRICK. Thank you, Senator Pressler.

I think, first of all, it is notable that the range of U.N. regulatory efforts has become astonishingly wide. Where they used to be narrowly focused, today they address a broad range of issues, including international transportation, shipping, international communications, direct satellite broadcasting—all of which are issues that have great importance to the future as well as the present—trans-border data flow. We have been very deeply concerned at the development of regulatory obstacles to the free flow of information.

U.N. efforts are currently in the works dealing with such broad areas of economic life as consumer protection and the activities and treatment of transnational corporations. The U.S. Mission to the United Nations keeps in regular touch with a range of American business and labor executives in order to remain informed about these issues. Other U.N. initiatives focus on specific products or industries such as, to take two famous cases, infant formula and pesticides.

There is a very great diversity in the format assumed by U.N.-sponsored regulatory activity. Some of the regulatory activity takes the form of binding agreements which, after they have been ratified by governments, have the force of law. Those are very easy to recognize.

Others are issued only as recommendations by expert bodies or in the form of voluntary, nonbinding codes or guidelines approved by intergovernmental organizations. These latter types of regulation do not have the legal force of law, but they can be influential in their impact on international business, because when standards and norms are adopted by a wide range of nations with universal or nearly universal endorsement they assume a kind of moral and political force that has a major influence on practices inside countries. They are not lightly challenged by single nations, much less by industries. Such international standards become, then, the basis for national legislation in a lot of countries, particularly Third World countries.

Given the great diversity of U.N. regulations, their subjects and their formats, it is difficult to generalize about them, but I would like to try just a few generalizations. One you have already mentioned concerning their source, U.N. regulation has proliferated because the growing interdependence of our world, the greater complexity of technology, the heightening levels of international economic cooperation, have increased the need for regulations.

Nobody doubts the need for some kinds of international regulation to protect everybody, not just less developed nations, but everybody. The United Nations sometimes serves as a useful forum in which constructive agreements can be reached. What is very disturbing, however, is the growing politicization of the efforts at regulation in the U.N. system.

This politicization is a problem for all U.N. activities and throughout the U.N. system. One of the sources of this politicization is, of course, the doctrine of the new international economic order [NIEO]. The new international economic order is a dream about what the world might look like if it were restructured on the basis of global socialism.

The bottom line of the new international economic order is a massive transfer of wealth and resources on the one hand, but, perhaps most important of all, a transfer of power—power over decisions that

affect our lives. You could say that it is a transfer from the more developed countries to the less developed countries, but I do not believe that is the case. I believe it is a transfer of power from decisionmaking in more developed countries to a new breed of international bureaucrat and a new breed of international political operator.

It could result in a mortal blow to market economies and the ability of market economies and free economic systems to operate effectively in the world.

Another closely related source of politicization is dislike of multinational corporations. Multinational corporations have come to enjoy very low prestige at the United Nations partly doubtless because they have engaged sometimes in some practices which they should not have, but also because they are the principal targets of this ideology which is very hostile to free market economics. I would say it is hostile to free market development as well.

The multinationals are cast as the villains in the new international economic order. I have had extraordinary conversations with top executives of American multinational corporations about the difficulties which they have had in the last decade in even maintaining high level contact with U.N. decisionmaking bodies engaged in attempts at regulation of their kind of enterprise.

Many U.N. regulatory initiatives, we believe, could be more appropriately and effectively addressed at the national level by national governments than at the international level. The hostility of the dominant ideology in the U.N. system to business gets transmitted through projected regulatory codes to nations and encourages them to adopt standards and practices which they would not do if they were simply trying to engage in national decisionmaking.

That means that the kinds of decisions and policies that are adopted, that are inspired by U.N. regulatory codes, are likely to be different than the kinds of policies that will be adopted by nations left to their own devices. We think that a good many of the organizations and groups in the world that are hostile to business and free enterprise are, therefore, particularly attracted to international regulation as a mechanism for implementing their ideologies and for spreading their kinds of policies.

Why can the United States not be more effective in influencing the codes developed in the U.N. system? The answer to that is the politics of the United Nations. This committee has already heard me discuss this issue.

The political arithmetic that prevails in the U.N. system puts us at an enormous disadvantage. The votes are distributed in the General Assembly and in most of the bodies of the United Nations on the basis of one country/one vote. Now a very large portion of those countries have very little economic experience in modern economics and modern production; furthermore, countries are organized into blocs in the U.N. system. The U.N. features politics in which blocs function very much like political parties in the Congress, and the biggest bloc that is influential in the economic area is, of course, the G–77.

The G–77 comprises nearly three-fourths of the total membership of U.N. bodies, so that on any given issue they can deliver the less-developed countries, who have the least experience with economic

production and the least detailed knowledge about it. They can deliver a three-fourths majority, whereas the most developed countries, who have the most economic experience and the most to win or lose, the largest stake, are relegated to a kind of permanent minority. The United States and its partners in the OECD, for example, can muster less than one-sixth of the total vote in the typical U.N. arena, despite the fact that they produce nearly two-thirds of the world's gross national product and contribute over 70 percent of the U.N. budget.

Furthermore, the political unity of the OECD countries on economic issues is usually less reliable and frailer than the political unity of the G–77. One of the reasons for that is that the U.N. system, as in the Congress, if you want to be successful you have to do a good deal of political wheeling and dealing and vote trading, and if you want a country's votes on one issue you may have to give them your votes on another. Some of the economic issues are the ones in which the developed countries, our OECD partners, often make compromises.

Another reason we do not do better, is that the United States and the Western countries have not been very vigorously engaged in ideological debate. We almost abandoned the field about 10 or 15 years ago, and have not made the case for the benefits of a free economy.

In this administration, we have tried to persuade our colleagues in the United Nations to look at the record to see which kinds of policies lead to economic development and which kinds lead to stagnation, and we have tried to make the case that they will be better off if they take another good, hard look at the new international economic order.

But it is a long road back to influence and to get fair treatment for free market economics in both theory and practice. Meanwhile, I think we simply have to stand alone if necessary. We have demonstrated that we can do that.

We would much rather stand with the other industrialized countries and we would much rather stand with the countries of the Third World who are themselves really interested in economic development for their own people in their own countries. But, if we have to, we will stand alone, as we have done on several occasions. The goal of our diplomacy and our diplomatic politics, however, must be to minimize the situations in which we stand alone and maximize our support or influence in the system.

The latest example of U.N. regulation, and one which I know you are concerned about, is the draft guidelines for consumer protection, which are slated to come before the summer session of the Economic and Social Council [ECOSOC] in Geneva this summer. ECOSOC's involvement in this issue dates back to 1977. It arose from a concern that the developing countries did not have adequate capabilities in the field of consumer protection to protect themselves and that, therefore, they needed help from the United Nations.

Various reports and resolutions on this subject culminated in a 1981 ECOSOC resolution calling on the U.N. Secretariat to elaborate a set of general guidelines for consumer protection. In accordance with this mandate, the Secretariat of the United Nations compiled a set of draft guidelines, circulated to member States last fall.

The United States has submitted very extensive comments on these proposed guidelines. Eventually, the revised draft guidelines will

appear in a document that also summarizes the comments of the member states. This document will be issued by the U.N. Secretariat prior to the July meeting of ECOSOC, and will serve as the basis for negotiations on the final decisions to be made in Geneva in the summer.

Now we are still at a rather preliminary stage in the drafting of these guidelines and nothing is in concrete yet. But we are on the way and molds are made, and what I would like to do is just comment very briefly on the shape, as it were, of those molds in which the concrete may be set and what disturbs us about them, why we think we may not be able to vote for them unless they undergo some significant changes.

First, I note that the original guidelines contain a number of specific provisions that were seriously prejudicial to American interests and the interests of American business. The original guidelines certainly were not acceptable to us. We hope that our comments and criticisms of these guidelines may result in sufficient revision that there will be eventually not only a set of guidelines which we could vote for but one which would not be damaging, in fact, to the consumers of the world.

We share the concern with consumer protection. Obviously our country supports effective consumer protection. Obviously we at U.S.U.N. support effective consumer protection. We believe, however, that the primary responsibility for consumer protection rests with each nation. We do not believe that ultimate responsibility for consumer protection resides in some global organization which we think does not even have the capacity to make prudent decisions about consumer protection.

We believe that an important goal of consumer policy should be to maximize consumer choice. We believe, of course, that economic competition is one important means of maximizing consumer choice.

We believe that international trade serves the interests of consumers and we believe very deeply that policies presented in the guise of consumer protection should not be used as nontariff barriers to trade. We think there is a real danger of policies being presented in the guise of consumer protection whose real goal, and certainly whose function, will be to serve as nontariff barriers to international trade.

We believe that the costs of regulation, internationally as well as nationally, should be considered along with the benefits in deciding on the advisability of consumer protection measures. We believe, finally, not only that nations, rather than global bodies, should have the fundamental responsibility for the protection of their consumers, but that consumers themselves ought to have some rights to decide among competing values.

Let me give you an example. One concern of the consumer protection guidelines which have been formulated in the Secretariat is that products, foodstuffs, for example, should be harmonious with cultural forms existing in the various nations of the world.

Now we Americans live in a society in which we can choose often among products that seem consistent with our culture and those that do not. We have foodstuffs that are presented in oriental form, in French form, in German form, in African form. We like to have a choice among products that are not necessarily consistent with our indigenous culture.

We think cultural heterogeneity in enriching, not threatening. We see no reason that some international body should deprive people in

the less developed worlds of the possibilities of experiencing the rich choice among products of different cultures and packages of different cultures. We hate to think an international regulatory body would deprive countries in Africa, for example, of the pleasures of French food, if some African consumers preferred French food.

Former British colonial countries might find that their culture was consistent with British food and not with French food or Japanese food, but we see no reason that just because they had the bad luck to be British colonies or French colonies or whatever, they ought to be limited forever to foodstuffs consistent with that colonial tradition or their own indigenous precolonial traditions.

I think the point is clear. We believe that the requirements of cultural consistency are vague, amorphous and would lead to arbitrary regulations which are punitive toward individuals and also punitive toward American business and very likely to function as nontariff trade barriers.

I wish that I could tell you that at the end of this current process there will be guidelines that the United States will find it possible to support. Frankly, I am not sure. All I can tell you at this stage is that we will do our best, as indeed we are doing, to take account of the conflicting values and we will give priority to legitimate concerns of consumer safety.

We will take into account in all of our reflections on this the safety and health and well-being of persons in areas of the world that may not have adequate national facilities for protecting themselves. We are not indifferent to those concerns, but neither do we believe that under the guise of protecting health and safety new codes of arbitrary international regulation should be imposed.

Thank you, Senator Pressler.

Senator PRESSLER. Thank you very much. Two of my colleagues have arrived, who may have opening statements.

I have a few questions to begin with, and then I will yield to my colleagues for questions. First of all, I think you have raised the issues very well. These are new so-called consumer protection guidelines—and who can be against protecting consumers?—but I think you have made the point very well that consumers may well be hurt by these guidelines in the long run.

Who exactly prepared this draft of these consumer protection guidelines?

Ambassador KIRKPATRICK. The short answer is the Secretariat of the United Nations.

Senator PRESSLER. Now these are international civil servants, is that correct?

Ambassador KIRKPATRICK. That is right.

Senator PRESSLER. And they have now submitted these to the countries for review. Is that correct?

Ambassador KIRKPATRICK. Right.

Senator PRESSLER. Of course, this is an internal problem in our Government. I understand that only three lines about this matter were published in the Federal Register. Three sentences, I understand, were published in the December 3, 1982, Federal Register by the Health and Human Services Department.

Much of American agriculture and industry is not really aware of what is in these guidelines or what the impact would be, and even if we vote against them they may well be adopted quietly and then as members of the United Nations we would have to abide by them. Is that basically the situation?

Ambassador KIRKPATRICK. Not really, no. May I comment first, though, on the publication?

One of the problems we have been deeply concerned about is the inadequate linkage between the U.N. system on the one hand and the interests of the American community on the other. We have tried to focus on that problem since we have been at the United Nations, but there is very poor communication.

Some American corporations have themselves persons who spend a lot of time keeping themselves informed about matters of special concern, but we do not have an adequate early warning system, I would say, to identify issues of potential concern to broad sectors of the American economy and inform the interested groups in the United States and give all of them an opportunity to comment on the impact of the proposed regulations.

We do not have that kind of communication system and input system for the United Nations, partly because the proliferation of U.N. regulation is a relatively recent phenomenon. The problem keeps getting worse.

My associate here, Dr. Marc Plattner is assigned on a full-time basis to work with American economic representatives—business, labor, consumers, all—on these questions. But it is not adequate and there is no adequate reporting system, to inform the American economic community of upcoming issues of concern to them.

This is a matter with which the Congress should be concerned and with which we at United States-United Nations certainly are concerned about and are working on. But it needs more attention than it has gotten. I commend it to your attention for reflection and potential action, in fact.

Will we be bound by the guidelines? No, we will not be bound by them, but we can be hurt by them, and multinational corporations and businesses could certainly be hurt by them. U.S. trade and the U.S. economy can be hurt by them, if they are widely adopted and they include items which are prejudicial to American business.

Senator PRESSLER. For example, the other day in the Commerce Committee's Communications Subcommittee, we were having a hearing on the international telecommunications bill—the Goldwater bill on international telecommunications—and a witness said that he had been to the Nairobi conference of the ITU and that they had spent their whole time debating whether to throw Israel out, and that many of the things that needed to be done for the developed countries to engage in international telecommunications, which is something that developed countries want to do and need to do—and ITU became the vehicle for this work—were not done.

So, therefore, some international telecommunications problems are not getting the attention they need. Even if we are not bound by international guidelines, at least it is having a profound impact on what seems like a rather obscure, but very important area—international telecommunications. We do export many things. More impor-

tantly, we are engaged in extensive communications between developed countries, in which perhaps many of the underdeveloped countries, which spend much time politicizing on this topic, do not have the same interest.

I think we are bound by, or we adhere to, as I understand, some of the things that ITU does, but, more importantly, UNCTAD, ECOSOC, the other international agencies, what they do in effect maybe does not legally bind us but in practice it does.

Now, I understand there is a group called the International Organization of Consumers' Unions that played a large role in drafting these consumer guidelines. Are you familar with this group?

Ambassador KIRKPATRICK. No, I am not.

Senator PRESSLER. They apparently are a group that is allowed to lobby the U.N. Economic and Social Council. Maybe your colleague——

Ambassador KIRKPATRICK. I have not been personally in touch with them, let me say. Dr. Plattner is.

I would just like to say that in a good many cases we find lobbies, social action lobbies, which cannot secure the adoption of their preferred policies nationally focusing their efforts on U.N. agencies in the hope of getting them adopted at the international level. And frequently it is easier to get concepts adopted at the international level than nationally, partly because the countervailing groups are not as active and partly because of the assistance of a dominant ideology that is more hostile to business and a free market.

Senator PRESSLER. Now Codex Alimentarius is a food and agricultural organization/world health organization system for the development and adoption of recommended standards to be applied on a worldwide basis covering a wide variety of foodstuffs. Please comment on their effectiveness as a model for standard setting.

Ambassador KIRKPATRICK. Senator Pressler, may I ask Dr. Plattner to respond to that question, please, since he is in direct contact with these groups?

Mr. PLATTNER. That is not an issue that we handle at the United States United Nations in New York. My impression, though, from speaking to people in the U.S. business community is that on the whole the Codex is regarded as a serious and, in large part, effective organization and there would seem to be a general preference for having issues related to food treated in that organization rather than a highly politicized body such as the Economic and Social Council.

Senator PRESSLER. I have some additional questions, but I want to yield to Senator Helms.

Senator HELMS. Madam Ambassador, as always you have been forthright and candid. Let me say at the outset that I view the proposal to be outrageous. I think it is a violation of the U.N. Charter, if I read chapter I, article I correctly. I think the United Nations has no business, as they say in North Carolina, messing around with this subject.

Now having said that, as you know there is a growing predisposition around this country that whatever purpose the United Nations may have served in the past it is no longer serving it in terms of the best interests of this country and freedom in general. It has not been so long since the now-minority leader of the Senate commented in a

discussion one morning that it was about time for the United States to get out of the United Nations.

Now you addressed yourself this morning and on other occasions to the way the voting occurs in the United Nations. Is it fair to say that it is your perception that the U.N. delegates do not vote on issues, they vote in blocs?

Ambassador KIRKPATRICK. My perception is that delegates in the United Nations vote rather like Senators and Congressmen vote.

Senator HELMS. That may be so.

Ambassador KIRKPATRICK. They belong to groups. They belong to blocs that function a lot like parties. They belong to interest groups. They also represent particular countries very much as Representatives represent particular States, and they are susceptible to various kinds of pressures, and all of those factors come into play in voting patterns in the United Nations.

I think the United Nations is a large, complex political system whose politics we have been handling very badly for quite a long time.

Senator HELMS. You mentioned what you call the dominant hostility to the free enterprise system. Is it your perception that this hostility is a natural thing, or is it orchestrated, or both?

Ambassador KIRKPATRICK. I think that the people and groups and countries which are hostile to market systems, have been more active in stating and promoting their point of view than those of us who think otherwise. It is interesting because the evidence internationally is strong that those nations which rely on a market approach are the nations that develop the most rapidly and vice versa.

But the dominant ideology reflects the opposite of the reality. Unfortunately, those of us who believe freedom works best, above all, for consumers, have not been very effective or very active even in trying to make our case. I think there has been a terrible kind of abdication of the ideological combat, frankly.

Senator HELMS. How would you go about changing that? What should we do?

Ambassador KIRKPATRICK. By getting involved.

Senator HELMS. Who?

Ambassador KIRKPATRICK. Well, above all, those of us who represent the United States in U.N. arenas.

Senator HELMS. Well, I cannot let you criticize yourself. You have been about as involved in trying to convey the story as anybody I know. Obviously you need help; where should that help come from? If we are interested in trying to make this failed system work, where should the help come from that you need?

Ambassador KIRKPATRICK. We need all the help we can get. I would say that we have—the U.S. representatives at the United Nations, along with a lot of other countries representatives—have not been active over the last two decades. I would even say that we, the Reagan administration representatives, have changed that policy since we have been there, and we have also encouraged a lot of our friends and allies to join us.

I think there is a kind of growing trend on the part of the OECD nations, for example, to speak up. The first speeches that were made by our representatives in U.N. arenas, though, in support of the free

market concepts of economic development pointing to the evidence on successful economic development created quite a stir, if I may say so.

I think we need a much more active participation of businesses that are affected in making the case. We need a more aggressive, effective statement of the case for freedom in economics as well as politics.

Senator HELMS. How great a role does foreign aid play in votes that occur in the United Nations?

Ambassador KIRKPATRICK. You mean U.S. foreign aid?

Senator HELMS. Yes.

Ambassador KIRKPATRICK. Not much. Unfortunately, I believe a practice developed of cutting loose our relations with nations in multilateral arenas like the United Nations from our bilateral relations, and the idea has been dominant that how a nation votes on anything in the United Nations should not affect how we treat it or how it treats us and our bilateral relations on other issues.

I think the United States has lost its influence in the international arenas largely because of this decoupling of multilateral and bilateral relations, and I think that reestablishing some linkage there would greatly restore U.S. influence. Our practice differs a lot from that of the Soviets or the British or the French and most other countries, almost all of whom enjoy more influence in the U.N. arena than we do.

Senator HELMS. So we have no quid pro quo in terms of support in the United Nations. We do not even have gratitude for the foreign aid which the U.S. taxpayer has given away by and through the foreign aid program since 1946.

Let me go back to a great concern I have about the United Nations, Madam Ambassador. You may or may not be aware of some inquiries I made of Judge Webster of the FBI some time back. I was astonished at his assessment of the percentage of diplomats in the United Nations and elsewhere who are subversive.

Is it a fact, as some have charged, that the United Nations is a nest of subversives?

Ambassador KIRKPATRICK. It is very well known that there are a good many spies, if that is what you mean, in and around the United Nations. We recently expelled some Cubans, for example, who were attached to the Cuban U.N. Mission on the grounds that they were engaging in activities unbecoming to a diplomat. That is very well known.

It is very well known that a good many countries, especially the Soviet bloc countries, use their U.N. missions and personnel as cover for persons who engage in espionage, yes. That is known. That is known by our FBI. It is known generally.

Senator HELMS. I see my time is just about up. I sense a growing concern—I have had it for a long time—about the usefulness of the United Nations as now constituted. That in no way implies, nor should you infer, any criticism of your performance, because you have done an excellent job under the most difficult of circumstances, and it is no surprise to you that I admire you very much.

A group of Senators yesterday were discussing this very problem at lunch, and we were just about unanimous in our opinion that it may be time to suggest that the United Nations be moved to Moscow and let

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the delegates see the kind of society that exists there, compared with the one against which they vote with regularity in New York.

I do not know whether that is a good idea or not. I think it is. I would like to try it. But, in any case, Madam Ambassador, I, for one, admire and respect the job that you have done.

Thank you, Mr. Chairman.

Senator PRESSLER. Thank you.

Let me pursue a question on agricultural exports. I make no apologies that I have spent a lot of time on international agricultural trade. In fact, as I mentioned this morning, I spent some time with Soviet Ambassador Dobrynin on the upcoming grain talks.

But looking at the worst scenario if these guidelines become effective, Guideline 7 contains a section that states, as I understand it,

> Business practices affecting the processing and distribution of food products should be regulated to ensure that they do not conflict with consumer interests or government aims in the area of food policy.

Now if such language is adopted as law in a country to which we presently export agricultural goods, could you foresee regulations that would erect nontariff barriers to our exports? I am thinking that the terms "consumer interest" and "government aims" are so broad and undefined that they could be used to oppose introduction of any product that we export.

Would that be your assessment?

[The questions refer to the March 1983 draft guidelines. See page 50 for the text of the March 1983 and May 1983 draft guidelines.]

Ambassador KIRKPATRICK. That is exactly the way I interpret it, Senator Pressler. I think that kind of vague, sweeping language could serve as the grounds for virtually any sort of punitive regulation that anybody chose to implement under it.

Senator PRESSLER. I have been trying to get our State Department more concerned, and the Congress involved in these issues. I do not know how we are going to come out on them, but what is the scenario here that we are faced with?

Will these regulations almost certainly be adopted this summer?

Ambassador KIRKPATRICK. First of all we are doing our best to work with the Secretariat. Let me just say that there are many extremely intelligent, competent people working with good will and good faith in the Secretariat of the United Nations on these problems, and we are working with them and with our colleagues who have experience and a stake in a lot of these issues, trying to amend the proposed guidelines in such a way that they will achieve their goals, whatever legitimate goals can be achieved, without both penalizing us and penalizing consumers, from Third World countries, and, indeed, every place in the world.

As I said, we are commenting on the guidelines and we are lobbying other delegations and we are continuously trying to make the case against the kind of guideline you just read on the grounds that it will not achieve legitimate goals of the United Nations and will do a lot of damage besides.

To the extent that the guidelines are amended to take account of our concerns, then we, of course, would have no objection to their being passed in Geneva. We frankly doubt that they will be amended enough so that we would be able to support them. But if they are not,

they are very likely to pass in any case in Geneva, yes, and we may find ourselves voting against them.

Senator PRESSLER. Thank you very much. I want to thank you very much for taking your time on this important subject, what I consider one of the most important, sweeping subjects around, which nobody is paying much attention to but which once we get into it we are going to find that there is going to be a great deal of interest.

Ambassador KIRKPATRICK. Senator Pressler, may I comment, please?

Senator PRESSLER. Yes.

Ambassador KIRKPATRICK. Let me just say I thank you for the opportunity to be here and I also commend you for taking your time and focusing the committee's attention on this area, which I think is enormously important to us and to our economy and to our values and principles in the world and which, as you say, no one is paying enough attention to.

As I have already indicated, we need all the help we can get on this. Some of that help surely has to come from Congress. Thank you.

Senator PRESSLER. Thank you. We are going to keep trying to get people interested in it, and we have had an amendment on this issue on the State Department authorization bill. But as yet it is not a subject that is stirring a lot of people. I think it will as the weeks and months go by, and I hope we do something about it before it is too late. We are all very interested in quality export products and, indeed, I am one who has always worried that our export grain is clean.

I heard in China and I heard in Russia that our grain is not as clean when it arrives as Canadian grain, and that is nonsense when you investigate it. But still we have to be very careful to protect the quality standards of the agricultural products and pharmaceutical products that we put out.

On the other hand, that being said, we do not want to get into a political situation where these things are used to restrict trade and it will hurt the lesser developed countries a great deal if international trade is strangled by some burdensome regulations that really are political in nature. That is my feeling.

I thank you again for taking your time.

Ambassador KIRKPATRICK. Thank you.

[The following article was referred to on page 20.]

[From Regulation, January–February 1983]

GLOBAL PATERNALISM: THE UN AND THE NEW INTERNATIONAL REGULATORY ORDER

(By Jeane J. Kirkpatrick)

(Jeane J. Kirkpatrick, United States permanent representative to the United Nations and a member of President Reagan's Cabinet, is on leave from her posts as resident scholar of the American Enterprise Institute and distinguished university professor at Georgetown University.)

The range, the sheer proliferation, of United Nations activities aimed at the regulation of international business and commerce is simply awesome. These UN regulatory initiatives extend quite literally from the depths of the oceans to the heavens, from the Law of the Sea Convention to an agreement—and this is a formal title—An Agreement Covering the Activities of States on the Moon and Other Celestial Bodies. Nor are the more mundane economic activities in between neglected. The UN pursues regulatory codes of a very general nature—for example, the Commission on Transnational Corporations' draft code on the conduct of transnational corporations—as well as some aimed at specific industries,

such as the infant formula code adopted by the World Health Organization (WHO) in 1981.

A very small sampling of UN activities undertaken in the last two years would include negotiations within the UN Conference on Trade and Development (UNCTAD) on a code of conduct for the transfer of technology, and another code on conditions for the registration of ships; efforts within the World Intellectual Property Organization (the acronym is WIPO) to revise the Paris Industrial Property Convention governing the international patent system; the Food and Agriculture Organization's deliberations on a code of conduct in the trade and use of pesticides; work done under the aegis of the UN Environmental Program on toxic chemicals and on a convention for the protection of the stratospheric ozone layer; efforts within the UN Commission on Transnational Corporations to develop international standards on accounting and reporting as well as on transborder data flow; and so forth.

There has been, in recent years, a veritable explosion of UN regulatory activity. It has occurred for a number of reasons, some very good and obvious ones. Important among these is the emergence of a number of new areas of activity that seem to many to require some sort of multinational agreement. The driving forces have included technological advance and, of course, growing interdependence in the world economy. These are very real forces and require a response.

Moreover, international regulation is not always hostile to free enterprise, or to the smooth operation of markets, or to economic development, or to the efficient production of wealth. Some kinds of multinational agreements under some circumstances—consider GATT, the General Agreement on Tariffs and Trade, for example—can serve to facilitate commerce by achieving mutual reductions in national barriers to international trade and investment, by harmonizing national regulations, by providing a secure legal framework for international economic activities.

The tendency toward greater intergovernmental consultation can be both helpful and healthy. It would prevail, almost surely, even if the United Nations did not exist, because of the growing interdependence of the world economy. That is demonstrated I believe, by the increasing use of such consultative mechanisms by the industrialized market economies in the Organization for Economic Cooperation and Development.

The Power of Negative Motivation

But the United Nations does exist, and within it an ever more active role is played by those organizations involved in one or another kind of international regulatory activity. And within the UN context, even when genuine problems are being addressed, there are invariably some powerful factors and motives at work pushing UN regulatory initiatives in some very unfortunate directions. The process of regulation in the United Nations is distorted at several levels—at the ideological level, the political level, the technical level and, finally, at the level of implementation.

Ideological distortion.—The first distortion occurs, I think, at the ideological level. How an issue is defined has obvious consequences for how it is going to be dealt with. And in the UN context the definition of the issue gets shaped, naturally, by the dominant ideology. Unfortunately for us Americans—and for anyone interested in economic growth and development—the dominant ideology in the United Nations concerning economic regulation is a version of class war that has been developed by a kind of gross adaptation of Marxist categories to relations among nations. According to this version of class war, the many poor nations are locked in a bitter and ongoing struggle with the few rich nations, very much as the working class or proletariat is, according to Marxist ideology, locked in an ongoing struggle with the few capitalists inside nations.

According to this theory, if property isn't theft, it is something very much like it. And because poverty, in this view, is caused by exploitation, the very fact of underdevelopment is seen as proof that a nation has been exploited. Wealth, on the other hand, is seen as won by exploiting others. The very fact of affluence proves that a nation has been guilty of exploitation. Disparities of wealth, in this view, are seen as intrinsically unjust. Justice, therefore, requires redistributing wealth from the rich nations to the poor nations. That is another way of saying that the political culture that prevails in the UN system on economic matters has two distinctive characteristics: It asserts the need for a more equal distribu-

tion of the world's wealth and it provides a moral justification for that redistribution. It is hostile or at best indifferent to the production of wealth in general and to those corporations in particular which operate across national boundaries (transnationals) or whose ownership is multinational.

Political distortion.—These ideological factors inevitably come into play as regulatory negotiations are undertaken and carried out under UN auspices. To this ideological context is added the political structure of the United Nations, a very important and very little understood factor. The United Nations is not simply a body in which representatives of 157 sovereign nations meet. It is a body in which groups interact very much as individuals form parties in legislatures.

Nations in the United Nations are organized into a series of overlapping groups, or blocs, and the business of the United Nations take place through the interaction of these groups. There is, for example, the Soviet bloc, there is the European Community bloc, there is the Nonaligned bloc, there is the Group of 77. (The G–77 is the third world organized for economic purposes; the Nonaligned is the third world organized for political purposes.) Each of these blocs has its own particular dynamic. Each of them has a problem, too—which is to maintain its own internal unity and cohesion. The blocs are formed as small nations try to develop greater strength by joining together, and they get that strength only at the price of maintaining their own internal unity.

But each of the blocs is filled with internal contradictions because of their members' conflicting interests and very different perspectives. They maintain unity chiefly by aggregating concern for all the specific interests of all the specific members. At last count, the G–77 had 126 members, and it is not much of an exaggeration to say that the G–77's bargaining positions very frequently turn out to be the sum total of all those members' demands. That adds up to a lot of demands. This method of establishing a negotiating position by accumulation, so to speak, naturally results in some very unrealistic demands. It also gives the most extreme positions of the most extreme members of the group a decisive effect on the negotiating position of the total group. A bloc's unity—particularly the unity of a big bloc, and to a certain extent of a smaller bloc, too—is brought, in many cases, at the price of the group's acquiescence in the most extreme demands of its most extreme members.

Technical distortion.—And that is not all. There is also distortion at the technical level where, it is important to note, the people who shape the negotiations and the debates concerning regulation almost invariably utterly lack technical expertise about the matters to be negotiated, to be regulated. Therefore, political concerns dominate. The process of goal-setting and problem-defining is governed not by consideration of what is technically necessary, desirable, or feasible, but quite simply by the politics of the blocs, in the political culture of international class struggle.

Politics at the UN takes a rather pure form, worthy of our state legislatures at the turn of the century. There is a good deal of vote trading, arm-twisting, demagoguery, playing to the galleries, a certain amount of buying and selling, logrolling, and pork-barreling. All those highly developed political skills are very much in fashion at the UN. There is widespread cynicism and tacit understanding that a good many of the declarations of intentions that are made there will never be implemented.

The result of all this is that the problems that are going to be addressed by the regulatory mechanisms are often defined ideologically, unrealistically, and in a manner that is technically inappropriate. In most legislatures, such political dynamics exist of course, but their distorting impact is moderated once the technical experts take over and try to translate into technically meaningful terms the broad commands of general policy. Unfortunately, that does not necessarily happen in the UN context. There, the technical level too is not only bureaucratic and suffers from all the problems endemic to bureaucracies, but there is another problem: inside the United Nations, technicians are drawn from 157 countries. Not all technical bodies have technicians from all 157 countries, but there are always a good many nations represented and all the major blocs are represented. To the usual array of bureaucratic problems, such as red tape and duplication, are added the conflicting codes of international civil service behavior. Whether you think you ought to represent your technical expertise or your nation is an open question. Whether the conflicting national codes of bureaucratic and technical behavior can be made harmonious is also an open question and frequently, unfortunately, it is a question that cannot be answered in the affirmative.

Implementational distortion.—Finally, even at the level of implementation, we find another distorting factor. Many of the regulations enacted by the United Nations have consequences for the member states. And since the people who are implementing these regulations are representatives of member states, some of which think it is the job of all their citizens to work all the time for their own state, there is a level of nationalist distortion that takes place at the implementation level and affects everything that goes on. The consequence is a hodgepodge of ideological, political bureaucratic, and national practices—and theories—that frequently distorts the regulatory process in the UN context beyond anything dreamed of in the national regulatory context.

LAW OF THE SEA OF THE BIAS

The interaction of all these factors comes into play in almost every regulatory negotiation and almost every regulatory implementation. The consequence is that while there are agreements that are ostensibly aimed at the benefit of all nations, in fact these agreements often turn out to be, above all, instruments for global redistribution of wealth and a new global paternalism which works to the advantage of somebody besides those nations and people interested in the production of wealth and economic development in the world.

The clearest case, I believe, of a UN regulatory effort being vitiated by this drive for global redistribution is the Law of the Sea Convention. During the last several decades, the economic resources of the ocean have become much more important—or, more accurately, we have thought of ways to make them more important to us. The world's harvest of fish has grown sharply, oil in increasing amounts is being extracted from the continental shelf, and, of course, the prospects of deep-sea mining of valuable minerals not too long ago seemed on the verge of realization, and may still be realized someday. At the same time, coastal nations were declaring various and conflicting economic and territorial claims to adjoining areas. In these circumstances, it seemed to many that useful rules and agreements on the use of the oceans might require international collaboration.

In fact, in most of its aspects the Law of the Sea Convention is a constructive response to the problems it was designed to solve. The United States has affirmed on several occasions that it finds acceptable many of the convention's provisions dealing with navigation, overflight, continental shelf, marine research, environment, and many other aspects. But we were not among the nations signing the Law of the Sea Convention in Montego Bay, Jamaica last December 10, because we could not accept the convention's provisions on seabed mining. The seabed regime established by the convention represents the full flowering of the redistributions outlook I described before. Mistakenly concluding from the fact that the seabed belongs to no one that it is the joint property of all, the convention creates an International Seabed Authority, a gigantic bureaucracy, governed and structured along typical United Nations lines.

"Typical United Nations lines" means, of course, that there is an enormous gap between the nations bearing the costs and the nations making the decisions. This disjunction was reflected in the final vote on the Law of Sea Convention. The four nations that voted against the convention and the seventeen that abstained not only produce more than 60 percent of the world's GNP and provide more than 60 percent of the United Nations' contributions, but they also include virtually all of the nations likely to develop seabed mining technology. Robert Goldwin of the American Enterprise Institute, in a succinct statement of what the convention's seabed regime would entail, has pointed out:

"That mining companies could invest billions of dollars to scoop up the nodules of manganese, copper, nickel, and cobalt that lie at the bottom of the sea only as licensed by the new International Sea-bed Authority; that they would have to pay the Authority for the privilege; that they would have to put the Authority's own operating company (called the Enterprise) into business with capital and technology; that the United States and other developed nations would have a minimal voice within the Authority; and that all disputes, regulations, production levels (and hence, prices and profits) would be set by one or another organ of the Authority."—(*Commentary*, June 1981)

In all of which we would have a very large responsibility and a very minor voice.

As President Reagan noted in explaining the United States' decision not to sign the Law of the Sea Convention, such provisions are likely to "deter future development of deep seabed mineral resources, when such development should serve the interests of all countries." The redistributionist bonanza some third world coun-

tries aimed at will almost certainly never materialize. Moreover, the United States has made clear its position that its right to carry out seabed mining, subject to reasonable regard for the interests of other states, will not be effected by its decision not to sign the convention. Clearly, however, it would have been in the best interest of all parties if the convention had contained an acceptable seabed mining section that would have permitted all the leading seabed mining countries (and all those likely to develop the capacity) to join.

GLOBAL TECHNOCRATS KNOW BEST

The goals sought in the Law of the Sea Convention, as in many other UN regulatory initiatives, are clear. Those goals are to gain economic benefit by securing and legitimizing a claim on the wealth and technology generated by the developed countries and their corporations. But there is another class of UN regulations also championed by third world representatives, where economic motives are less prominent. I refer to recent international regulatory efforts ostensibly aimed at protecting human health and safety, such as WHO's infant formula code. Another example of this new wave of paternalistic regulation emerged in the 1982 General Assembly session in the form of a resolution on harmful products, which in its original version would have totally prohibited the export of any product banned from domestic use for any reason whatsoever.

There are genuine problems of health and safety requiring intergovernmental cooperation, especially in terms of improved information exchange. Attempts to deal with these problems within the United Nations, however, too often are caught up in a very crude kind of anticapitalist ideology that is more concerned with restricting and discrediting multinational/transnational corporations, claiming they are very bad institutions which do harm to the countries in which they operate. There is a single exception to this: it is also assumed, when the question of investment in South Africa is considered, that multinational corporations *help* South Africa—the only example in the world in the UN context in which multinational corporations are seen as of economic benefit to the country in which they operate.

Multinational corporations are bad guys on the UN scene. I was visited a few weeks ago by a group of parliamentarians of a friendly European democracy, and one of them asked me why it was that the United States had voted "no" on a particular paragraph of a particular resolution. This asserted that women's rights were horribly abused all over the world, but especially in rural areas, and that the principal cause of these miseries and deprivations of rural women in less-developed areas was—you guessed it—exploitation by transnational corporations. (The U.S. delegation at the UN generally votes "no," I observed, on ludicrous distortions of reality.)

Transnational corporations, as they are usually called in the UN, are regularly tried and found guilty of the most extraordinary range of crimes. Naturally, therefore, punitive regulation of transnational corporations becomes a kind of a good in itself. The rhetoric used gives the game away—rhetoric like "killing babies for profit" and that sort of thing. Some people apparently think that that rhetoric has greater resonance in the West than do the standard third world appeals about redistributing wealth, which may be one of the reasons it is emphasized.

An interesting role is played in this regulatory process by nongovernmental organizations—which, loosely defined, include numerous public interest groups from both ends of the political spectrum. Apparently, some of the nongovernmental organizations that do not achieve much success in this country, or in other Western countries, have focused very heavily on the United Nations as the point at which to try to secure adoption of the regulatory and punitive policies they cannot get adopted in their own political systems. It has been observed, at the UN, that there is emerging a kind of recognizable "iron triangle" uniting nongovernmental organizations, third world representatives (particularly of the radical third world countries), and ideologically sympathetic international bureaucrats in quest of restrictive international health and safety regulations. Interestingly, this new international paternalism almost invariably advocates adoption in the UN of restrictions on activities which could just as easily, in principle, be adopted within the specific countries of the member nations, if those countries chose to do so. If, for example, the countries of Africa did not desire the marketing and advertising of infant formula, there is no reason in the world that their governments could not so decide, and adopt such policies at the national level.

The fact that this regulatory thrust is focused at the level of the international bureaucracy is, I think, a suggestive clue about the strategy for establishing this new global socialism, this new paternalism, in which an international bureaucracy believes it knows what is better for everyone—better for us, better for the third world, better for everyone. In the UN system, the view is widespread that the institutions of the United Nations itself are the arena in which the "new international economic order" can be achieved. They are, after all, the institutions in which a majority exists that can be counted on—on the basis of one country, one vote—to favor projects that are highly discriminatory from the point of view of the most powerful nations in the world, including our own. The powerful nations are outnumbered in the UN; we constitute a reliable minority. There has been a lot of talk about the automatic majority in the UN. But for every automatic majority there is an automatic minority, and that's us.

UN agencies, then, are the scene of a struggle that we seem doomed to lose. Regulation is the instrument for the redistribution of what is called the world's wealth. The international bureaucracy functions as the "new class" to which power is to be transferred. Global socialism is the expected and, from the point of view of many, the desired result.

The problem with this is, of course, that it is bad theory. It is bad theory in the technical sense that its major terms do not accurately describe the world with which they deal. Wealth is not created by theft or transfer from less developed countries to more developed countries. It is created, as Adam Smith well understood, by innovation, investment, entrepreneurship. Wealth is created by growth. Computers, automobiles, aviation, looms, locomotives, the steam engine itself were not stolen from the third world. They were invented in the first world. Neither was the poverty of the least developed countries caused by the ravages of multinationals, or even by colonialism—for which, by the way, we Americans had no responsibility. The theory of international class war is equally misleading with regard to development. Poverty cannot be ended by redistribution. It can only be ended by economic development which, as we all know, is a creative process in which all sectors of a society become involved.

Finally, at the core of this theory of international class struggle lies another very curious notion: the idea that there is such a thing as the world's property—sea, space, whatever—and that the United Nations has a right to it. On exactly this theory rests the claim, the United Nations, claim, of sovereignty over oceans and space. The argument is that whatever belongs to no one belongs to the United Nations. It is a strange doctrine of property, a mistaken theory of development, and a destructive doctrine of regulation. Doubtless, international regulation is needed in a good many domains. Doubtless, consumers in remote places need protection against unscrupulous multinationals. (They need protection in ways that do not inhibit economic development and growth, I may say, as well.) And doubtless, too, all of us need protection against the arrogance of the new international "new class."

Senator PRESSLER. We are now very honored to hear from Murray L. Weidenbaum—I apologize for always pronouncing your name wrong. I have said it many times before—Murray Weidenbaum, whom we all know and have heard from before. He is now the director of the Center for the Study of American Business at Washington University in St. Louis, and the former chairman of the Council of Economic Advisers, served as chairman of the Economic Policy Committee, and the Organization for Economic Cooperation and Development.

Dr. Weidenbaum.

STATEMENT OF HON. MURRAY L. WEIDENBAUM, DIRECTOR, CENTER FOR THE STUDY OF AMERICAN BUSINESS, WASHINGTON UNIVERSITY, ST. LOUIS, MO.

Dr. WEIDENBAUM. Thank you, Mr. Chairman. My testimony complements Jeane Kirkpatrick's by focusing on one current specific attempt

of the United Nations to expand its regulation of domestic economic activity, so I focus on the draft guidelines for consumer protection.

Mine is an unenviable task. How can anyone oppose guidelines designed to protect the consumer? It takes a hard heart to question a proposed U.N. promulgation of such good things as product safety and consumer education. Yet when you push aside the verbiage you find that the draft guidelines now before the U.N.'s Economic and Social Council would flunk a truth-in-labeling test.

As you know, the bureaucratic shorthand for that agency is ECOSOC. Reading the guidelines, I am beginning to understand whose "ECO" they are going to "SOC." These guidelines truly have the makings of a blueprint for a more centrally directed society than now exists in any market-oriented economy. They are a model of vagueness and overblown phraseology.

Grand goals are set forth in sweeping language. The guidelines would interfere with the goal of open trade by establishing a new set of nontariff barriers. They would impose many burdensome controls on the world's economy. Above all, consumers would be hurt and not protected.

The guidelines show the United Nations to be drifting further away from its fundamental goal of promoting peace. By regulating commerce and international economic activities of its member nations, the United Nations is stepping into areas properly left to individual countries.

Let us begin by looking at the stated objectives of the guidelines. One objective is to "facilitate production patterns geared to meeting the most important needs of consumers." In private enterprise economies, consumer needs are always the strongest influence on "production patterns." The pressures of the marketplace dictate that. But the guidelines suggest the need for a controlled, centralized economy in which consumer choices are limited by an all-wise government who would identify and then control the means of achieving the most important needs of consumers.

We need only consult the dismal record of the world's Communist nations in feeding their citizens to know that promulgating this objective would hurt the developing countries.

To quote a second sweeping objective of the guidelines, "To curb business practices * * * which adversely affect consumers—including abuses of a dominant position of market power." Surely we all deplore business abuses, but how do we define "business practices" that "adversely affect consumers," and who defines them? Moreover, any business practice may be arbitrarily labeled abusive when it is held up against a standard that cannot be achieved or which consumers do not wish to pay for.

Other objectives in the guidelines are equally troubling when we consider their farreaching nature. For example, "To promote just, equitable, and sustainable economic and social development." This is an imposing ideal, but who is going to define "just" and "equitable"? Who is going to decide and then control what is "sustainable development"?

Here is another objective, "To establish standards of ethical conduct for those engaged in production and distribution of goods and services to consumers." Ethical conduct is laudatory, but who will set

the standards of "ethical conduct"? Who will place themselves above others and regulate private behavior? I shudder to think how a totalitarian interpretation of "ethical conduct" would differ from that of a free society.

The guidelines also contain high-minded but vague notions of consumer rights that governments must insure. These include physical safety, economic safety from offenses or malpractices, consumer information and education, and having consumer groups' views represented in the decisionmaking process.

At first blush, these rights seem admirable. But even if a consensus could be reached on them, they do not materialize out of thin air. In each case, they imply substantial expansion of the role of Government. Nowhere do the guidelines stipulate the costs attached to the litany of benefits. A sense of balance between cost and benefits is essential, especially in less developed nations where resources are so limited. The achievement of greater safety, for example, involves added costs in producing a product. We have learned the hard way that Government safety standards raise the price of products, and hence price out of the market the most vulnerable consumers, those with low incomes.

Such pricing out leads to greater consumer risk. For example, requiring a safer but more expensive ladder would cause many people to climb on chairs and tables instead, much riskier than using existing ladders. The world over some people want more safety while others settle for less. Who is going to decide what are dangerous products and services? In the number of injuries, few products can compete with the kitchen knife. Clearly, the usefulness of many products leads each of us to accept a reasonable amount of risk in our daily lives, and that varies among individuals.

As for the right to consumer education, the guidelines show the same high-handed attitude toward education as they do toward the economy. Certainly consumers in less developed countries need a great deal of education with regard to products, but they need basic education much more. As an educator, I am naturally suspicious whenever outside interests try to dictate the contents of a curriculum. We have seen so often the results—ineffective utilization of scarce educational resources.

Here is a general principle in the guidelines that raises grave concerns: "The right to economic safety from offenses or malpractices which deny consumers optimum benefit within their economic resources."

If you read it at face value, this is gibberish. But given the frequency with which people in Communist countries are thrown in jail for so-called "economic offenses," this provision is dangerous. Is Big Brother to determine what are offenses and malpractices and the point at which consumers have derived optimum benefit? This principle shows that the list of rights is a matter for each nation to decide.

The one-sidedness of the guidelines is indicated in the right of consumer organizations to be consulted and to have their views represented in the decisionmaking process. The guidelines make no provision for the views of other interests, such as the businesses that are regulated.

But, most important, these guidelines refer to "the decisionmaking process." That is the giveaway. These guidelines are not intended for

a decentralized free-market, private-enterprise economy. They are designed for a centralized, planned economy in which government makes the key decisions.

Should the United Nations be involved at all in regulations getting into such detail as does the following guideline?

> It is the responsibility of the manufacturer to ensure that goods produced are safe for intended and normal use. It is the responsibility of the importer or distributor to insure that no unsafe goods are brought onto the market. . . .
>
> Governments should . . . insure that the intended level of safety is met . . . through compliance with safety regulations, and by requiring the maintenance of exact safety records.

The guidelines are not meant for our kind of economy. Our governments do not insure safety or determine an intended level of safety. The last part of this guideline would create a paperwork mill.

Here is another provision. "Government policies should seek to insure that consumers obtain the maximum benefit from their economic resources." I can only describe the United Nations under this guideline as a "global nanny." If this passes, then if I want to buy something silly for my wife's birthday I would wind up violating a U.N. policy.

Here is another guideline. "Producers should insure the availability of reliable after-sales service." That runs against the antitrust laws. This also is nonsense from the standpoint of economics. Why should we assume that service must be provided by the producer? That means the sale is a noncompetitive tie-in sale. Is this properly a concern of the United Nations? In our country, we do not even think it is a government question at all.

The same applies to the following guideline.

> Government should formulate and put into effect national codes on marketing and other business practices to insure that such practices are fair to consumers.

This is an expansion of the power of government.

Here is another guideline.

> Governments should intensify their efforts to prevent economic offenses through systematically monitoring the adherences to the established laws and standards by producers, distributors and others. . . .

It goes on to state that consumer groups "should be encouraged and supported in monitoring economic offenses."

What kind of government systematically monitors private citizens? What sort of government encourages specific groups to monitor other private groups? Clearly these guidelines show little interest in either economic freedom or personal liberty.

It is helpful to examine guidelines for specific industries to get a feel as to how they work, and here is one on food. It says:

> Government, when formulating national policies and plans with regard to food production and distribution . . . should provide for adequate post-harvest handling, storage, processing and distribution. . . .

Should government in our society take care of post-harvest handling, storage, processing and distribution? This is the role of the American farmer and his counterpart in the other nations of the world, surely not a U.N. responsibility.

The guidelines' disregard of the market system is universally evident. For example, this section says: "Food contamination monitor-

ing and control programs should be established or strengthened * * *." This guideline gives no indication that some countries have already done this and have done it quite well without the United Nations.

We see how the marketplace gets superseded in another section on food. I read,

> The marketing of highly refined and expensive food products should be regulated in order to insure that such practices do not conflict with consumers' interests or government aims in the area of food policy.

Who is going to judge the so-called conflict between consumer interests and business practices? In a free society if there is a conflict consumers protect their interests by not buying the product. Moreover, why are highly refined and expensive food products singled out? What all-wise power is going to determine that a specific category of food represents a conflict with the consumer's interest?

By the way, products that meet all of the preceding safety and related standards are going to be more expensive. Therefore, they will run afoul of this guideline. This is the closest thing to a perpetual motion machine, guaranteed to increase government regulation, when you think it through, and I doubt they have.

International regulation of production and distribution is a far cry from the basic role of the United Nations, which is, according to its charter, and I quote, "to maintain international peace and security." It is sad to see the United Nations diverting its attention to business regulation when it is doing such a poor job of carrying out the basic task for which it was established.

Its charter prohibits it from intervening "in matters which are essentially within the domestic jurisdiction of any state." I think the whole set of guidelines rules afoul of that provision.

To conclude, in this statement I have attempted to make three main points. One, the U.N. guidelines would impose centralized control on the economies of sovereign nations. Two, the United Nations should focus instead on its fundamental role of peacekeeper. And, three, the United Nations should not assume the role of global "nanny" or international consumer "cop."

Thank you very much.

[Mr. Weidenbaum's prepared statement follows:]

PREPARED STATEMENT OF HON. MURRAY L. WEIDENBAUM

THE U.N. MAY BECOME A GLOBAL NANNY

Mine is an unenviable assignment. How could anyone possibly oppose guidelines that are designed to protect the consumer? It takes a hard heart to question the proposed United Nations' promulgation of such good things as product safety and purity, consumer education, and international cooperation.

Yet, sadly, when you push aside the verbiage customary in international position papers, you quickly find that the "Draft Guidelines for Consumer Protection," now before the U.N.'s Economic and Social Council (ECOSOC), would flunk a truth-in-labeling test. Indeed, the so-called Guidelines have the makings of a blueprint for a more centrally directed society than now exists in any of the market-oriented economies in the world.

When we look beyond the label, it is apparent that the Guidelines are a model of vagueness and over-blown phraseology. Grand and unusual goals are set forth in language that is, at best, highly generalized and unclear. Attempts to carry out these Guidelines would surely result in worldwide confusion.

In any event, the Guidelines likely would produce results contrary to the goal of open international trade promoted for many years by the United States. Some parts of this code of conduct would impose burdensome and costly controls on the world's economies—and would tend to close, rather than open up, international markets. It is my belief that the United States and many other nations would be inviting disenchantment, as well as substantial costs, if they were to adopt this proposal. Above all, consumers themselves would be hurt rather than protected.

In addition, the Guidelines show the United Nations to be drifting further away from its fundamental and crucial goal of promoting and maintaining world peace. By seeking to regulate the commerce and internal economic activities of its member nations, the U.N. is stepping into areas that are properly left to individual countries. Furthermore, the U.N. is diverting its limited resources from its basic role of peacekeeper.

Implications of the guidelines

The Draft Guidelines for Consumer Protection contain, first of all, seven objectives which are written "with special emphasis on the needs of developing nations." The objectives are, almost necessarily, quite general in nature. Several of them are particularly problematic. For example one objective is "to facilitate production patterns geared to meeting the most important needs of consumers." In economies organized along private enterprise lines, the needs of consumers are always the strongest influence on "production patterns"; the pressures of the marketplace dictate that. But the Guidelines suggest the need for a controlled, highly centralized economy in which consumer choices are in practice limited by the decisions of an all-wise central government. This objective strongly implies that a central government must identify, and then control, the means of achieving the "most important needs" of consumers. We need only consult the dismal record of any of the world's Communist, centrally planned economies in feeding and meeting other essential needs of their citizens to know that promulgating this objective would severely hurt, rather than help, the developing nations.

Moreover, this objective overlooks the importance of world trade in meeting the needs of consumers. More than ever before, the more developed nations gear production for international markets rather than for the so-called "more important needs" of their own consumers. The case of Japan is instructive. If its postwar economy had been limited to meeting the needs of its own population, it surely would not enjoy the influence in world markets and the high standard of living that it has today. The same holds true for other market economies, ranging from West Germany to Hong Kong.

Let me quote a second sweeping and ill-conceived objective of the Guidelines:

"To curb business practices at the national and international levels which adversely affect consumers (including abuses of a dominant position of market power by private and public enterprises)."

Surely we all deplore business abuses, but how do we define business practices that "adversely affect consumers"? It is possible that a so-called "adverse effect" in India or Zaire would instead be a salutary effect for consumers in the Caribbean or Colombia. Comparative effects make it extremely difficult, if not impossible, to carve in stone what is a "good" product or service and what is "bad."

Moreover, nearly any product or business practice may be arbitrarily labeled "abusive" when it is held up against a standard that cannot be achieved or which consumers do not wish to pay for. Under the proposed Guidelines, for example, Brand X Soap might be held to "adversely affect" consumers simply because it does not have the "ideal" qualities of Brand Y Soap. And where would this kind of thinking lead us? In many ways, this objective is a Pandora's box which, once opened, could be used to limit the choices of consumers around the world. It could even be used as a justification for erecting trade barriers, or strengthening barriers that already exist.

Other objectives in the Guidelines are equally troubling when we consider their far-reaching nature. Here is an example:

"To promote just, equitable and sustainable economic and social development."

This is an imposing, high-minded ideal. But who is going to define what is "just" and equitable" in any specific instance? Also, who is going to decide—and then control—what is "sustainable" development? And here is another "objective":

"To establish standards of ethical conduct for those engaged in production and distribution of goods and services to consumers."

Certainly, ethical conduct is laudatory. But who will set the standards of "ethical conduct"? Who will place themselves above all others and regulate private behavior? I shudder to think how substantially a totalitarian interpretation of ethical conduct would differ from that of various free societies.

The Draft Guidelines also contain a set of general principles that governments are called upon to follow "to develop or strengthen their consumer protection policies." These principles are written as high-minded but vague and controversial nations of "rights." The list is impressive and includes the right to:

"physical safety from dangerous goods and services";

"economic safety from offences or malpractices" that deny benefits to consumers;

consumer information and education;

"available and effective redress"; and

form consumer groups and have these groups' views represented in "the decision-making process".

At first blush, most of these principles or "rights" seem to be admirable and worthy. But even if some kind of consensus could be reached on these principles, we must remember that they do not materialize out of thin air. Making them a reality is not automatic. In each case, they imply a substantial expansion of the role of government, at least in the economies now based on markets and competition.

Furthermore, nowhere do the Guidelines stipulate that there are costs attached to the litany of benefits. A sense of balance between costs and benefits (and between costs and effectiveness) is essential if consumer protection is to be considered—especially in less developed nations where resources are so limited. For example, the achievement of greater physical safety involves added costs in producing or distributing a product, particularly if the goal is anything approaching the idyllic "zero risk" notion embedded in much existing consumer protection legislation.

The United States has learned the lesson that government-mandated safety standards raise the price of products—and, as a result, "price out" some of the most vulnerable consumers (e.g., those with low incomes) from the market for those products. Ironically, such "pricing out" could lead to greater consumer risk. For example, requiring a safer but more expensive ladder than those now in common usage would probably cause many people to climb on chairs and tables instead—a much riskier approach than using existing ladders, with whate er shortcomings they possess.

Thus, product safety regulation can be an imperfect and even self-defeating tool. Moreover, individual beliefs of what is proper or adequate safety protection are not absolute. The world over, some people want more safety in a product, while some people may want less. In certain instances, people require a great deal of safety from a step-ladder or an appliance or a tool; in other instances, consumers do not.

Who, then, is going to decide what constitutes "physical safety," as set forth in these Guidelines? Who is going to decide what are "dangerous goods and services"? In terms of injuries, few consumer products may compete with the kitchen knife in terms of frequency of injuries. Clearly the utility of many products leads us to accept a reasonable amount of risk in our daily lives.

Similarly, criticisms may be made about the statement in the Guidelines of "the right to such information as is necessary in order to make informed choices." Transmitting information about goods and services is a worthy goal, if the information is useful and accurate. But the task needs to be carefully approached. Just take a look at the maze of fine print that is often required on products in this country—fine print which results from the regulator's simple-minded notion that more information is always better than less. It is important to realize that market economies reduce the need for specific product information. Producers of goods and services know that they have a reputation at stake in their brand names; it is in their interest to maintain a high quality in what they produce rather than to provide voluminous (and often unused) "information."

As for the "right to consumer education," the U.N. Guidelines imply the same high-handed attitude towards educational systems as they do toward economic systems. Consumers in less developed countries may, in fact, need a great deal of education with regard to products and services—but they may need basic educational skills even more. As an educator, I am naturally suspicious when outside interests attempt to dictate the contents of a curriculum. The results are usually ineffective utilization of scarce educational resources.

A questioning attitude also must be taken with respect to the proposed "right to available and effective redress." Apart from quibbling about a useful definition of what constitutes "effective redress" at an international level, we would have to examine whether a new claims court, or something on that order, would duplicate or override existing legal systems. That is just one illustration among many of the dangers inherent in using broad, sweeping language in setting forth new policies at the international level.

One general principle in the Guidelines raises very grave concerns: "The right to economic safety from offenses or malpractices which deny consumers optimum benefit within their economic resources."

Taken at face value, this is merely gibberish. But given the frequency with which people in Communist countries are thrown in jail for so-called "economic offenses" against the state, this provision is potentially a very dangerous part of the proposed U.N. Guidelines. Is "Big Brother" to determine what are "offenses and malpractices" and the point at which consumers have derived "optimum benefit" from resources? If this so-called principle does anything, it points out that the list of various "rights" is a matter for individual nations to decide.

Further, the related principle that "transnational corporations should conform to national and international standards for consumer protection" is not only vague in its stated purpose, but blatantly discriminatory. Why are "transnational corporations" singled out for special attention, and not all enterprises? I can only conclude that transnationals are focused upon in these Guidelines as a scapegoat.

The one-sidedness of the Guidelines is further indicated in the "right" of consumer organizations "to be consulted and to have their views represented in the decision-making process." The Guidelines make absolutely no provision for representing the views of private enterprise—the very businesses that would be regulated under these Guidelines. In fact, this U.N. document is not written from the viewpoint of free-market societies: It speaks of "the decision-making process," as though only one can exist. That, I believe, is the give-away. These Guidelines are not intended for free, private-enterprise economies; they are designed to establish or promote centralized, planned economies in which the national government makes the key economic decisions.

Further implications of the guidelines

It is useful to list some of the specific Guidelines and let them speak for themselves. Do any of these sound like regulatory areas in which the United Nations should be involved?

"It is the responsibility of the manufacturer to ensure that goods produced are adequately safe for intended and normal use. It is the responsibility of the importer or distributor to ensure that no unsafe goods are brought onto the market. . . .

"Governments should . . . ensure that the intended level of safety is met . . . through compliance with safety regulations, national or international standards, and voluntary agreements, and by requiring the maintenance of exact safety records."

On the one hand, the Guidelines are clearly dictatorial: governments should "ensure" safety and, presumably, determine an "intended" level of safety. On the other hand, they ask governments to create paperwork mills "by requiring the maintenance of exact safety records." There is no indication of having learned from experience in the United States with agencies such as the Occupational Safety and Health Administration. OSHA has been cutting back its paperwork requirements after learning that so much of its initial, onerous recordkeeping requirements were not needed.

There are other provisions worthy of our attention. Here are several Guidelines listed under "protection of economic interest": "Government policies should seek to ensure that consumers obtain the maximum benefit from their economic resources."

Does not this describe the United Nations as a global "nanny"? Extending this notion to its "illogical conclusion," if I want to buy something silly for my wife's birthday, I could wind up violating a U.N. policy.

Here's another provision: "Producers should ensure the availability of reliable after-sales service."

From the standpoint of economics and simple logic, this Guideline is total nonsense. Why presume that service must be provided by the producer, unless a sale is a non-competitive, tie-in sale? Production and service, after all, are not necessarily provided best by the same source—at least this is true in competitive, open

markets. Moreover, is this properly a concern of the United Nations? In the United States, we do not consider this an area for government regulation at all.

The same criticisms apply to the following Guideline: "Governments should formulate and put into effect national codes on marketing and other business practices to ensure that such practices are fair to consumers. Consumer organizations should participate in the elaboration and monitoring of such codes."

The demand for "national codes" such as those mentioned here completely ignores the fact that several member nations of the U.N. have a federal form of government in which the powers of the national government are limited. Examples include the United States, Australia, Canada, and West Germany.

Two other Guidelines in the category of "protection of economic interests" again cast the shadow of "Big Brother." One is the following: "Governments should intensify their efforts to prevent economic offenses through systematically monitoring the adherence to the established laws and standards by producers, distributors and others involved in the provision of goods and services."

It goes on to state that consumer groups "should be encouraged and supported in monitoring economic offenses." What is the true meaning and purpose of a provision such as this one? What sort of government systematically monitors the actions of private citizens? What sort of government encourages and supports specific private groups in the monitoring of other private groups, as though they were licensed vigilantes? It is obvious that the authors of the Guidelines have little interest in either economic freedom or personal liberty.

Another suspect Guideline is the following: "Governments should consider adopting a specific policy for improving the distribution system for essential consumer goods and services, particularly in rural areas."

Why only rural areas? But beyond that, what amount of choice does such a provision allow for? Who is going to decide what are the "essential" goods and services?

Guidelines relating to specific industries

It is also helpful to examine the Guidelines which have been proposed for specific industries. Here is one example:

"Governments, when formulating national policies and plans with regard to food production and distribution, should take into account the needs of all consumer groups. Such policies and plans should inter alia provide for adequate post-harvest handling, storage, processing and distribution and should include mechanisms for appropriate activity in the case of seasonal fluctuation in food supply and prices."

Again, let us look at the true meaning of a Guideline such as this one. How is a government going to take into account the needs of "all" consumer groups unless, in fact, it identifies and controls the "needs" of those groups? What possible role could private enterprise play in such a process? Certainly a very small one, since carrying out the Guideline will inevitably require centralized planning. The same applies to "adequate post-harvest handling," and so forth, since a central government would have to direct those processes. But perhaps the most disturbing part of this provision is the bureaucratic language about "mechanisms for appropriate activity in the case of seasonal fluctuation in food supply and price." Plainly and simply, this means price controls and, further, import controls. This Guideline is totally inconsistent with the workings of a modern private enterprise economy.

The Guidelines' disregard of the market system is further displayed in two provisions under national strategies "for food safety and quality control." One of these states: "Food contamination monitoring and control programmes should be established or strengthened. . . ."

This Guideline gives absolutely no indication that some countries have already done this—and done it quite well without United Nations mandates. Instead, what we have here is a simple-minded assertion and the belief, as always in these draft Guidelines, that more is better than less—more regulation, more intervention and control, more power in a central government. Food standards—or "remedial actions" in the words of the Guideline—can be used by a nation to justify the erection of barriers to international trade.

Finally, we see once again how the marketplace gets superseded in another section concerning food:

"Business practices affecting the processing and distribution of food products and especially the marketing of highly refined and expensive food products should be regulated in order to ensure that such practices do not conflict with consumers' interests or government aims in the area of food policy."

Who is going to judge the so-called "conflict" between consumers' interests and business practices regarding the processing, distribution and marketing of food products? In free societies with market economies, if there is some kind of type of "conflict," consumers will protect their interests by not buying the product. Resorting to regulation may simply project "government aims" in food policy—and that is probably the true purpose of this provision. Moreover, why are "highly refined and expensive food products" singled out here? What all-wise power in a nation is going to determine that a specific category of food products presents a "conflict" with the interests of consumers, whereas another category does not?

The central role of the U.N.

International regulation of the production and distribution of goods and services via these Guidelines is a far cry from the central role of the United Nations which is according to the U.N. charter, "to maintain international peace and security." That role deserves the greatest amount of emphasis in the dangerous world in which we live. Frankly, it is sad to see the U.N. diverting its resources to large-scale forms of economic regulation when it is doing such an inadequate job of carrying out the basic tasks for which it was established.

One purpose of the United Nations set forth in its charter is "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character." Surely this goal should be pursued in the interests of world peace. But these Guidelines for Consumer Protection make no effort to enhance economic cooperation among nations. They would, in fact, tend to damage economic conditions in developing nations, where the cause of peace is so crucial today.

Above all, the U.N. charter explicitly prohibits the United Nations from intervening "in matters which are essentially within the domestic jurisdiction of any state." Much of what the Consumer Protection Guidelines has to offer would involve just such intervention—and on a massive scale. The examples I have presented here show that, wittingly or unwittingly, the Guidelines point to a society in which governments in each nation of the world would have a much larger role in economic activity—sometimes by orders of magnitude.

Conclusion

Regulation of internal economic activity is a matter of individual nations to carry out. As we have seen for many years now in the United States, regulation is a mixed blessing. It can be an imperfect, costly, and at times counterproductive instrument. Moreover, the proposed U.N. Consumer Protection Guidelines are not consistent, by any stretch of the imagination, with the workings of a private enterprise economy. Rather, they are designed to promote a much larger government role in the private sector. If the United Nations were to take on the role of global "nanny" in regulating the activities of private enterprise, it would likely do so at the expense of sacrificing many of the freedoms that are basic to the United States and many other member nations.

To recapitulate, in this statement I have attempted to make three main points: (1) the U.N. Guidelines attempt to impose centralized control on the economies of sovereign nations, (2) the United Nations should focus instead on its fundamental role of peacekeeper, and (3) the U.N. should not assume the role of global "nanny" or international consumer "cop."

Senator PRESSLER. Thank you. I think you have said it very well here. We would have a global "nanny." I like your terminology.

Let me ask you a few questions. First, Dr. Weidenbaum, my reading of these guidelines leads me to believe that they are a vehicle for encouraging Government-controlled economies and espouse theories that are antithetical to the free market economy, such as our own, frankly. Government intervention into the marketplace seems to be a benchmark of these guidelines.

One example is that governments are told to intervene in cases of fluctuations in food supply and prices. If adopted as Federal consumer protection legislation in the United States, what would be the impact on our economy? Of course, they are really not proposed to be adopted as Federal legislation, but would they not have the same effective impact on exports as if they were?

Dr. WEIDENBAUM. Senator, I agree totally with what you have just stated. Specifically, the adoption of these guidelines would hurt the American economy two ways. One, all exporters would have to worry that they would be facing markets that respond to these guidelines in foreign countries, and, second, to the extent that these are adopted by the United Nations, of course there would be great pressure for following them here in our domestic economy.

We are a full dues-paying member of the United Nations and, worse yet, perhaps, the United States would be supporting—and this would be a clear precedent—an international policy that prefers government intervention over private enterprise.

Senator PRESSLER. I know that a lot of these international consumer protection guidelines sound great, and indeed we did invite various consumer groups to testify here today, but they said that they first wanted to hear some of the testimony and submit written testimony later or appear in fact. Indeed, we did invite Ralph Nader; he did decline. He is out of town.

In future, we will be hearing and receiving written testimony from persons with other points of view. In your written testimony is a phrase where you quote a general principle in the guidelines that concerned me a lot. It sounds great, and it says, "The right to economic safety from offenses or malpractices which deny consumers optimum benefit within their economic resources." [Refers to March 1983 draft guidelines.]

Now that could mean that a company could go into a country and be distributing food or pharmaceuticals or whatever and a decision could be reached by that country on this vague guideline. They would have no idea what they are operating under. It could be interpreted any way overnight. Is that not correct?

Dr. WEIDENBAUM. Absolutely. That is the scary part. Companies who are selling standard items could literally be fined or thrown in jail because these would be crimes and they are not now.

I am delighted to learn that you have invited Ralph Nader. I was disappointed not to see him here today. I certainly would be delighted to come back and discuss these matters with him, if that would be appropriate, because this is a vital consumer issue.

Senator PRESSLER. Yes, it is a great consumer issue and indeed we did invite him and we invited several consumer groups. They did indicate that they would prefer to see the testimony first and then submit written testimony. I think that this is a subject on which the lights are just coming on, and people are hesitant to get into writing until they look at it in more detail.

But the more I look into it, it appears it is really going to be a disaster not just for the United States but for all developed countries who are trying to carry on trade, and it is going to be a disaster for the lesser developed countries, and a worse disaster for consumers.

Dr. WEIDENBAUM. I think the consumers in the less developed nations are likely to be hardest hit because those, frankly, are the countries likely to take these guidelines most seriously. If we have seen anything—and I speak as an ex-bureaucrat—government employees are not very good at the task of developing and running an economy. These guidelines would encourage the less developed nations in a sense to stay less developed.

Senator PRESSLER. International corporations and multinational corporations are the targets of a lot of criticism and they may have, in some cases, done things wrong and may need to be monitored closely in some respects.

On the other hand, this really could cripple an investor's desire to engage in export. And I say this since I have a great interest in agricultural exports, coming from a State that produces a lot of them. Also, our country has a strong interest because our balance of trade—we buy our oil with what we get selling agricultural products.

Dr. WEIDENBAUM. Senator, this point of multinational corporations is a vital one. Clearly, any organization, public or private, multinational or national, is somewhat short of perfection. But there is a key factor that explains why the multinational corporations are the focal point for so much international criticism.

They are the private sector alternative to a greater government role in economic development. To the extent that multinational corporations can be discredited, this strengthens the pressure for increasing direct government involvement in the vital task of developing the economies of the less developed nations.

Senator PRESSLER. Again, Guideline 7 contains a section which states:

> Business practices affecting the processing and distribution of food products should be regulated to ensure that they do not conflict with consumer interests or government aims in the area of good policy. [Refers to March 1983 draft guidelines.]

What could be a worse scenario? Maybe you could give us some examples of what could happen under that.

Dr. WEIDENBAUM. As I read the food guidelines, we could, to begin with, have government price control. Second, they could lead to import and export controls—import controls where there is an abundant harvest in a country, and export control when there is a poor harvest in a country.

But, most important, if government is going to oversee the specific details of the agricultural sector, farmers will become part of the government bureaucracy. If there is anything that characterizes the United States compared to U.S.S.R., it is our great agricultural productivity and the fact that the U.S.S.R. cannot feed its own people.

Of course, we know the extent to which the Soviet Union has nationalized its agriculture. That was a bloody situation back in the 1930's. They have never recovered from it. And our free market agriculture is a tremendous comparison. These guidelines would go the Soviet route rather than the U.S. route.

That is, I think, the most damning thing about the guidelines. They are not written from the viewpoint of market-oriented economies. They are written from the viewpoint of Socialist economies, but they do not say that. That is why I said they would flunk the "truth in labeling" law.

Ostensibly it is consumer protection, but it is the old protection racket. It is not consumer protection.

Senator PRESSLER. What would be the costs of these guidelines? These have been advocated without reference to or consideration of the costs of such regulations. Do you have any observations in that area?

Dr. WEIDENBAUM. I cannot at this point give you a dollar figure, Mr. Chairman, but I will give you one provision alone and that is requiring the maintenance of exact safety records. Actually, we have gone the other way in the United States. I am thinking of OSHA, which used to be the most maligned agency in town and no longer is.

We have learned that requiring exact safety records does create a needless paper mill. That kind of detail just is not used. Is it expensive? Yes; if you take it literally, if you require exact safety records on the use of every consumer product in every member of the United Nations, my goodness, you are talking about billions of dollars in paperwork alone. You would have a growth industry in the storage of safety records.

Senator PRESSLER. Now another concern of mine is that the U.S. response has been inadequate, that nobody knows about it or cares. I want to have your recommendations and your view.

Is the U.S. Government organized effectively to deal with the current proliferation of codes and guidelines within the U.N. system, and do you have any suggestions as to how the U.S. Government can better address this problem? You may want to respond later in writing more specifically, or you may just want to respond right now.

Dr. WEIDENBAUM. Well, Mr. Chairman, let me give you an introductory response, and that is no. To my knowledge, there is not a mechanism for coordinating the various U.S. representatives at the United Nations and other international organizations. From my own experience I am tempted sometimes to say we are very adequately staffed. In fact we send some of the most elaborate delegations to some of these meetings, but I see very little coordination.

Whether it is the National Security Council or the State Department, certainly someone needs to take the lead in assuring that key items such as these guidelines do not fall between the cracks and, more important, that the representatives to each group from each Federal department are consistent with national policy.

If there is no coordination, we may find we have a dozen different little policies. That is why this hearing, I think, is a landmark hearing. We need information and education. We need to explain to the American public the tremendous proliferations of government regulation of the economy via the United Nations.

I do not think one person in 10,000 is aware that the United Nations gets into that sort of thing. I can only speak for the Center for the Study of American Business that I direct at Washington University. We are going to be researching this area more fully because that is an important and neglected impact on American business.

Senator PRESSLER. It certainly is. Of course, I guess we all accept a certain level of international regulation. Of course, when there is international air traffic or international ship traffic there are certain safety standards that are productive. What we are talking about here is something quite different.

What we are talking about here is giving the regulatory power to these international civil servants, basically, because they are the ones that write this, as far as I can tell. I cannot see any input coming from other groups to write the standards for international commerce. That is basically what it boils down to, I think.

Dr. WEIDENBAUM. It is worse than that because it also gets so fully involved in domestic commerce. And I submit, according to the U.N. Charter itself, that is not a proper area for the United Nations to get involved in at all, although as an exbureaucrat it does not surprise me that expansion leads to expansion leads to further expansion.

But there is apparently no control mechanism over the growth and proliferation of U.N. activities. It seems as if, having made a shambles of their basic function, they are diverting attention by getting involved in all sorts of extraneous matters.

That is also a scary factor. I heard Senator Helms ask should we pull out of the United Nations? Well, increasingly that question is likely to come up, to the extent that the United Nations neglects the function for which it was set up and focuses on something which according to its own charter is not its responsibility, and that is involving itself in the internal affairs of the domestic economies of the member nations.

Senator PRESSLER. Let me say that I, too, have concerns along those lines and I say that as a charter member of the Minnehaha County United Nations Association at the grass roots, and I am still a member in my home State. I know there are a lot of people who are.

Back when I was a young man and joined, that was not the purpose of the United Nations. They were not getting into these areas and really it has taken a turn for what I consider the worse in the last few years. In another committee on which I serve, the Communications Subcommittee of the Commerce Committee—we have noted that the international telecommunications area was really seriously hurt by lack of action in areas that have been taken over by the United Nations because they spent all the time at the Nairobi conference debating about whether to throw one country out. That was a purely political debate.

It went on for 2 weeks and everybody went home and important decisions were not made. It really is a serious matter.

Let me say again for the record that consumer groups have been invited to this meeting today. Later, with the Foreign Relations Committee chairman's permission, I would be happy to hold another hearing to hear from them and affected industry groups, but I think even our domestic consumer groups may not be prepared to support these guidelines. I cannot speak for them, and I am always careful to let everybody speak for themselves, but I will be looking forward to their testimony.

I think even they will agree with much of what you have said, and they should because consumers will not be helped.

I can never say we are going to hold a hearing out of the blue, but it is a very serious matter and I am trying to wake up Washington to what is going on. It is a subject that we are going to hear much more about.

Next year, we are going to be flooded with protests, and we should be. But it has been difficult to get people alerted to what is happening. If these guidelines go into effect they are going to hurt our exports so much and we are going to hear so much about the loss of jobs in our country, and we are going to hear so much questioning about how this ever happened that people will wonder who was asleep at the switch.

So I am trying to build some interest in this issue and I thank you very much for testifying. We have an amendment on the State Depart-

ment authorization bill and we are going to continue to raise the issue on the Senate floor and elsewhere.

I thank you for testifying. I hope that the universities and the study groups will get interested in this, and I hope that such groups publish and hold forums on this issue because it is so very important. Thank you very much for being here.

Dr. WEIDENBAUM. Thank you, sir.

[The draft guidelines of March 1983 and May 1983 follow:]

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL

DRAFT GUIDELINES FOR CONSUMER PROTECTION (MARCH 1983)

OBJECTIVES

Taking into account the interests of all countries, with special emphasis on the needs of developing countries, these guidelines for consumer protection have the following objectives:

(a) To assist countries in achieving adequate protection for their people as consumers;

[(b) To promote just, equitable and sustainable economic and social development;]

(c) To facilitate production patterns geared to meeting the most important needs of consumers;

(d) To establish standards of ethical conduct for those engaged in production and distribution of goods and services to consumers;

(e) To curb business practices at the national and international levels which adversely affect consumers (including abuses of a dominant position of market power by private and public enterprises);

(f) To stimulate the development of consumer organizations;

(g) To further international cooperation in the field of consumer protection.

GENERAL PRINCIPLES

(1) A coherent consumer protection policy should follow the principles set out below. Governments are called upon to develop or strengthen their consumer protection policies in line with these principles. In so doing, each national Government must set its own priorities within the consumer protection field, according to the economic and social circumstances of the country, and the needs of its population.

(2) The principles, which are elaborated in the following guidelines, are:

(a) The right to physical safety from dangerous goods and services;

(b) The right to economic safety from offenses or malpractices which deny consumers optimum benefit within their economic resources;

(c) The right to such information as is necessary in order to make informed choices according to individual wishes and needs;

(d) The right to consumer protection;

(e) The right to available and effective redress;

(f) The right to form consumer groups or organizations and recognition of the right of such organizations to be consulted and to have their views represented in the decision-making process.

(3) Consumer protection policies should recognize the social imbalance which exists between producer and consumer at the individual, national and international level. This imbalance is reflected in economic terms; in educational levels; in technological sophistication; and in bargaining power.

(4) Governments should provide institutional and financial facilities including the setting up of appropriate public bodies to develop, implement and monitor consumer protection policies. Special care should be taken to ensure that measures for consumer protection are implemented for the benefit of the rural population.

(5) At the international and national level consumer protection policies should seek to achieve equitable distribution of food, energy, non-renewable resources and the basic necessities of life. The introduction of new products and changes in the distribution system, particularly in developing countries, must be assessed in relation to local conditions and with due regard for the existing production, distribution and consumption patterns of the country or region concerned.

(6) Transnational corporations should conform to national and international standards for consumer protection, including the provisions contained in relevant regulations of the United Nations.

GUIDELINES

1. Physical safety

(a) It is the responsibility of the manufacturer to ensure that goods produced are adequately safe for both intended and normal use. It is the responsibility of the distributor to ensure that no unsafe goods are brought on to the market and especially that the goods while in his care are not rendered less safe, inter alia, through improper handling or storage, or through failure to provide the necessary information. Consumers should be informed in an appropriate manner of any risks involved, taking into account the nature of the goods, the people who will use them and the environment in which they will be used.

(b) Governments should by all appropriate means encourage manufacturers and distributors to take steps in their business practices to ensure that the intended level of safety is met, inter alia, through compliance with safety regulations, national or international standards, and voluntary agreements, and by the maintenance of safety records.

(c) If manufacturers or distributors become aware of hazards subsequent to placing or distributing products in the market, they should, as appropriate, notify the relevant authorities and the public.

(d) If a product is found to constitute a substantial and severe hazard, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product. If it is not possible to do so within a reasonable length of time the consumer should be adequately compensated.

2. Protection of economic interests

(a) Government policies should seek to ensure that consumers obtain the maximum benefit from their economic resources. To this end, satisfactory production or performance standards, adequate distribution methods, fair business practices, informative marketing and effective protection against economic offenses are essential.

(b) It is the responsibility of the supplier to see that goods offered for sale meet normal demands of durability, utility and reliability, and are suitable for the purpose for which they are intended.

(c) Governments should adopt, review and/or strengthen, as the case may be, legislation relating to the control of restrictive and other business practices which may be harmful to consumers, including measures for the enforcement of such legislation. In this connection, Governments should be guided by their commitment to the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices as adopted by the United Nations General Assembly in resolution 35/63 on 5 December 1980.

(d) Suppliers should ensure the availability of reliable after-sale service. Governments should devote special attention to problems arising from the abuse of dominant market power by suppliers of spare parts.

(e) Legislation should be developed to prevent sellers from abusing their dominant bargaining position, inter alia, through the use of one-sided standard contracts, exclusion of essential rights in contracts, or excessive conditions of credit.

(f) Where consumer goods or services are purchased and/or provided by public bodies, consumer participation should be ensured in the implementation of the policies of those bodies.

(g) Promotion marketing and sales practices should be guided by the principle of fair treatment of the consumer. This includes the provision of sufficient accurate information to enable consumers to take independent decisions. The burden of proof for the accuracy of such information should rest with the person advertising or selling products or services to consumers.

(h) Governments should encourage the adoption and implementation of national codes on marketing and other business practices to ensure that such practices are fair to consumers. Consumer organizations should participate in the elaboration and monitoring of such codes.

(i) Governments should regularly review the legislation pertaining to weights and measures and assess the adequacy of the machinery for its enforcement.

(j) Governments should intensify their efforts to prevent offenses affecting consumers' economic interests through systematically monitoring the adherence to established laws and standards by producers, distributors and others involved in the provision of goods and services. Consumer organizations should be encouraged and supported in monitoring such offenses, including the adulteration of foods, false or misleading claims in marketing and service frauds.

3. Standards for the safety and quality of consumer goods and services

(a) Governments should as appropriate formulate or promote the elaboration and implementation of national and international standards for the safety and

quality of essential goods and services and give them appropriate publicity. International standards or criteria for product safety and quality should, as far as possible, be adopted, and national standards and regulations should be reviewed if and when relevant international standards become available.

(b) Where necessary, a standard lower than the generally accepted international standard could be prescribed for a given period, with a view to raising it to the level of the international standard when possible.

(c) In order to ensure implementation of standards, Governments should, as appropriate, take legislative measures, set up facilities or accredit laboratories to test and certify the safety, quality and performance of essential consumer goods and services, or support such facilities if they are operated by other institutions in the interest of consumers.

(d) Standards, certification systems, testing methods, administrative procedures and regulations should not be practiced in such a way that they become arbitrary barriers to international trade.

4. Distribution facilities for essential consumer goods and services

(a) Governments should, where appropriate, consider adopting a specific policy for improving the distribution system for essential consumer goods and services, particularly in rural areas. Such a policy could relate to assistance for the creation of adequate storage and shop facilities in rural centers, to incentives for consumer self-help, to better control of safety, quality and prices of essential goods and services in rural areas, and to better consumer information and education for consumers having low literacy standards.

(b) The establishment of consumer cooperatives and their trading activities should be encouraged and supported, especially in rural areas. Consumer cooperatives should include consumer protection as part of their members' education programs.

5. Measures enabling consumers to obtain redress

(a) Governments should establish or maintain legal and/or administrative measures to help consumers obtain redress through formal or informal procedures that are speedy, fair, inexpensive and accessible. Such procedures should especially take account of the needs of low-income consumers.

(b) The establishment of advice services and non-legal complaints procedures which can provide assistance to consumers, especially in the handling of complaints, should be supported by governments.

6. Education and information programs

(a) Governments should develop or support the development of general consumer education and information programs, bearing in mind the cultural traditions of the people concerned. The aim of such programs should be to educate people to act as discriminating consumers, capable of making an informed choice of goods and services and conscious of their rights and responsibilities.

(b) Consumer education should become a regular part of the education system, preferably as a component of existing subjects.

(c) Consumer education should cover such important aspects of consumer protection as:

(i) health, nutrition, prevention of food-borne disease and food adulteration;

(ii) hazardous products, pollution and environment; and

(iii) legislation and agencies for consumer protection.

(d) Consumer organizations should be encouraged to undertake educational and information programs, particularly for the benefit of low-income consumer groups in rural and urban areas. Such programs should inter alia, provide information about price, quality and availability of basic necessities and furthermore emphasize information on prices and quality in general, credit conditions, weights and measures, and redress of consumer grievances.

(e) Bearing in mind the need to reach rural consumers as well as the large number of illiterate consumers, governments should, as appropriate, develop or encourage the development of consumer information programs in the mass media.

(f) Governments should organize or encourage training programs for educators, mass media professionals and consumer advisers to enable them to participate in carrying out consumer information and education programs.

7. Guidelines for measures in specific areas

Food.—(a) Governments, when formulating national policies and plans with regard to food production and distribution, should take into account the need

for food security covering all consumer groups. Such policies and plans should inter alia provide for adequate post-harvest handling, storage, processing and distribution and should include mechanisms for appropriate, intervention in the case of seasonal fluctuations in food supply and prices. Cooperatives and other forms of consumer self-help should be involved as much as possible.

(b) Governments should develop or improve the national strategy for food quality control taking the following elements into account:

(i) The food quality control infrastructure should be developed and strengthened especially through the updating and completion of national food legislation; the establishment or strengthening of food testing laboratories and food inspection services; and the training of the necessary professional and managerial personnel.

(ii) Effective and coherent food quality control should be developed or strengthened, covering food production, processing, marketing and distribution.

(iii) Food safety should be ensured through the development or strengthening of, inter alia, safety criteria, food standards, and effective surveillance and evaluation mechanisms.

(c) Food contamination monitoring and control programs should be established or strengthened to determine the type and extent of food contamination problems and permit action on remedial measures to prevent food losses and to protect consumers in urban as well as in rural areas.

(d) Governments should as far as possible adopt standards from the Codex Alimentarius and in their absence other international food standards. They should also implement the Code of Ethics for the International Trade in Food adopted by the Codex Alimentarius Commission.

(e) Governments should encourage consumer participation in food quality control activities, particularly in formulating policies and drafting food regulations and standards.

(f) Business practices affecting the processing and distribution of food products and especially the marketing of highly refined and expensive food products in developing countries should be regulated if necessary in order to ensure that such practices do not conflict with consumers' interests or government aims in the area of food policy.

Water.—(a) Governments should, within the goals and targets set out for the United Nations International Drinking Water Supply and Sanitation Decade, formulate national policies and plans to improve the supply, distribution and quality of water for drinking and sanitation purposes, aiming at a general upgrading in the level of services provided to the population.

(b) In developing such policies, the following principles should particularly be considered:

(i) Governments should have due regard for the choice of appropriate level of technology compatible with the prevailing economic and social conditions.

(ii) Education programs should be established especially in the rural areas, to raise awareness of the importance of clean water and adequate sanitation as well as the appropriate use of available water.

(iii) Community participation should be encouraged, especially in rural areas, in the construction, operation and maintenance of water supply and sanitation facilities.

Pharmaceutical products.—(a) Governments should develop or, where they already exist, systematically monitor national drug policies as part of the country's health program in order to improve the pharmaceutical supply and distribution situation, taking especially into account the work and recommendations of the World Health Organization. As part of this policy, Governments should review, and adopt or strengthen—as the case may be—legislation and regulations applying to all drugs, which would include importation, production, distribution, manufacturing practices, and promotion and supply of information about drugs. It is essential that promotional activities by manufacturers support and be consistent with Governments' public health objectives.

(b) Measures should be taken on the national level to further the use of essential drugs under their generic names, drawing upon the work done by WHO, to encourage doctors to prescribe drugs by their generic names where feasible and to provide health workers and consumers directly with information on the drugs.

(c) A national registration system for pharmaceutical products should be established on the basis of reliable information obtained inter alia through regional

arrangements or from international organizations, particularly the World Health Organization.

(d) The drug procurement and distribution system should be developed and strengthened. Quality control should be an integral part of such a system.

(e) Training should be provided for personnel at all levels dealing with the distribution and marketing of drugs.

(f) Local production of drugs should be encouraged. Consideration should be given to periodic reviews of licensing agreements concerning the local manufacture of drugs, and of policies with regard to the transfer of technology (with special regard to price-influencing restrictive business practices, according to the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices).

(g) Research on the use of local resources, including traditional remedies and medicinal plants should be promoted, especially where they can make a potential contribution to primary health care.

8. International Cooperation

(a) Governments should, especially in a regional or sub-regional context:

(i) Develop or strengthen exchange of information on national policies and measures in the field of consumer protection.

(ii) Cooperate in the implementation of consumer protection policies to achieve greater results within existing resources. Examples of such cooperation could be collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programs, joint training programs and joint elaboration of regulations.

(iii) Cooperate to improve the conditions under which essential goods are offered to consumers. Such cooperation could include joint procurement of essential goods, exchange of information on different procurement possibilities and agreements on regional product specifications.

(b) Taking into account General Assembly resolution 37/137 concerning protection against products harmful to health and the environment, governments should develop or strengthen information links in order to prevent hazardous goods banned, withdraw or severely restricted in one country because they have been judged to endanger health and the environment, from being exported to other countries. Special consideration should be given to ensuring that the quality of the products intended for different markets, and information relating to such products, does not vary in each market in a way which would have detrimental effects on consumers.

ECOSOC Guidelines for Consumer Protection (May 1983 Draft)

A. OBJECTIVES

Taking into account the interests of all countries, particularly the needs of developing countries; recognizing the social imbalance which exists between producer and consumer in economic terms, educational levels, and bargaining power; and bearing in mind the importance of promoting just, equitable and sustainable economic and social development, these guidelines for consumer protection have the following objectives:

(a) To assist countries in achieving adequate protection for their population as consumers;

(b) To facilitate production patterns geared to meeting the most important needs of consumers;

(c) To encourage standards of ethical conduct for those engaged in production and distribution of goods and services to consumers;

(d) To curb business practices at the national and international levels which adversely affect consumers (including abuses of a dominant position of market power by private and public enterprises);

(e) To stimulate the development of independent consumer groups; and

(f) To further international cooperation in the field of consumer protection.

B. GENERAL PRINCIPLES

1. Government should develop or strengthen and implement a coherent consumer protection policy taking into account the guidelines set out below. In so doing, each Government must set its own priorities for the protection of consumers, in accordance with the economic and social circumstances of the country,

and the needs of its population, and bearing in mind the costs and benefits of proposed legislation.

2. The legitimate needs which the guidelines are intended to secure are the following:

(a) The physical safety of consumers and their protection from potential dangers;

(b) The protection of consumers' economic interests;

(c) Access of consumers to the necessary information to make informed choices according to individual wishes and needs;

(d) Consumer education;

(e) Availability of effective consumer redress;

(f) Freedom to form consumer groups or organizations and the opportunity of such organizations to be consulted and to have their views represented.

3. Governments should provide adequate infrastructure, including the establishment of public bodies, as well as financial facilities to develop, implement and monitor consumer protection policies. Special care should be taken to ensure that measures for consumer protection are implemented for the benefit of all sectors of the population, particularly the rural population.

4. The introduction of new products, particularly in developing countries, must be assessed in relation to local conditions and with due regard for the existing production, distribution and consumption patterns of the country or region concerned.

5. Transnational corporations should conform to national and international standards for consumer protection, including the pertinent provisions of the United Nations instruments.

C. GUIDELINES

1. Physical safety

(a) Governments should encourage manufacturers and distributors to ensure that products are safe, inter alia, through compliance with safety regulations, national or international standards, and voluntary standards, and by the maintenance of safety records.

(b) The manufacturer should ensure that goods produced are safe for both intended and normal use. Suppliers, exporters, importers, retailers, etc. [hereinafter referred to as distributor/s] should ensure that goods brought onto the market are safe and that these goods while in their care are not rendered unsafe, inter alia, through improper handling or storage, or through failure to provide the necessary information. Consumers should be instructed as to the proper use of the goods and should be informed of any risks involved, taking into account the nature of the goods, the people who will use them, and the environment in which they will be used.

(c) If manufacturers or distributors become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and the public without delay.

(d) If a product is found to be seriously defective or to constitute a substantial and severe hazard even when properly used, manufacturers and/or distributors should recall it and replace or modify it, or substitute it for another product. If it is not possible to do so within a reasonable length of time, the consumer should be adequately compensated.

2. Protection of economic interests

(a) Government policies should seek to enable consumers to obtain optimum benefit from their economic resources. To this end, satisfactory production and performance standards, adequate distribution methods, fair business practice, informative marketing, and effective protection against practices which could adversely affect consumers' economic interests are essential.

(b) Governments should adopt, review and/or strengthen, as the case may be, legislation relating to the control of restrictive and other business practices which may be harmful to consumers, including measures for the enforcement of such legislation. In this connection, Governments should be guided by their commitment to the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices adopted by the United Nations General Assembly in resolution 35/63.

(c) It is the responsibility of the manufacturer to see that goods produced for sale meet normal demands of durability, utility and reliability, and are suitable for the purpose for which they are intended.

(d) Governments should encourage fair and effective competition in order to

provide consumers with the greatest range of choice among products and services at the lowest cost.

(e) Manufacturers and/or retailers, as appropriate, should ensure the availability of reliable after-sales service and spare parts.

(f) Consumers should be protected from abuses by sellers in a dominant position of market power by, inter alia, legal sanctions against the use of one-sided standard contracts, exclusion of essential rights in contracts, and unconscionable conditions of credit.

(g) Promotional marketing and sales practices should be guided by the principle of fair treatment of the consumer. This requires the provision of the information necessary to enable consumers to take informed and independent decisions, as well as measures to ensure that the information provided is accurate.

(h) Governments should encourage the adoption and implementation of national codes on marketing and other business practices to ensure that such practices are fair to consumers. Consumer organizations should participate in the elaboration and monitoring of such codes.

(i) Governments should regularly review the legislation pertaining to weights and measures and assess the adequacy of the machinery for its enforcement.

(j) Governments should intensify their efforts to prevent practices which are damaging to consumers' economic interests through systematically monitoring the adherence to established laws and standards by manufacturers, distributors and others involved in the provision of goods and services. Consumer organizations should be encouraged and supported in monitoring practices, such as the adulteration of foods, false or misleading claims in marketing, and service frauds.

3. Standards for the safety and quality of consumer goods and services

(a) Governments should, as appropriate, formulate or promote the elaboration and implementation of standards at the national and international levels for the safety and quality of essential goods and services and give them appropriate publicity. National standards and regulations for product safety and quality should be reviewed from time to time, in order to ensure that they conform, where necessary, to generally accepted international standards.

(b) Where a standard lower than the generally accepted international standard must be applied because of local economic conditions, every effort should be made to raise that standard as soon as possible.

(c) In order to ensure implementation of standards, Governments should, as appropriate, take legislative measures, set up facilities or accredit laboratories to test and certify the safety, quality and performance of essential consumer goods and services, or support such facilities if they are operated by other institutions in the interest of consumers.

(d) Standards, certification systems, testing methods, administrative procedures and regulations should not be practiced in a way that they become barriers to international trade.

4. Distribution facilities for essential goods and services

(a) Governments should, where appropriate, consider adopting a specific policy for improving the distribution system for essential goods and services, particularly in rural areas. Such a policy could include assistance for the creation of adequate storage and retail facilities in rural centers, incentives for consumer self-help, better control of safety, quality and prices of essential goods and services in rural areas.

(b) The establishment of consumer cooperatives and related trading activities should be encouraged and supported, especially in rural areas.

5. Measures enabling consumers to obtain redress

(a) Governments should establish or maintain legal and/or administrative measures to help consumers obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Such procedures should take particular account of the needs of low-income consumers.

(b) Governments should encourage the establishment of voluntary mechanisms, including advisory services and informal complaints procedures which can provide assistance to consumers.

(c) Information as to available redress procedures should be provided to consumers.

6. Education and information programs

(a) Governments should develop or support the development of general consumer education and information programs, bearing in mind the cultural traditions of the people concerned. The aim of such programs should be to enable people

to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities.

(b) Consumer education should become an integral part of the education system's basic curriculum, preferably as a component of existing subjects.

(c) Consumer education should cover such important aspects of consumer protection as:

(i) health, nutrition, prevention of food-borne diseases and food adulteration;

(ii) hazardous products, pollution and environment;

(iii) product labelling; and

(iv) legislation and organizations for consumer protection.

(d) Consumer organizations and other interested groups should be encouraged to undertake education and information programs, particularly for the benefit of low-income consumer groups in rural and urban areas. Such programs should, inter alia, provide information about price, quality and availability of basic necessities and emphasize information on prices and quality in general, credit conditions, weights and measures, and redress of consumer grievances. Consumer cooperatives should include consumer protection as part of their members' education programs.

(e) Bearing in mind the need to reach rural consumers and also illiterate consumers governments should, as appropriate, develop or encourage the development of consumer information programs in the mass media.

(f) Governments should organize or encourage training programs for educators, mass media professional and consumer advisers, to enable them to participate in carrying out consumer information and education programs.

7. *Guidelines for measures in specific areas*

Food.—(a) Governments, when formulating national policies and plans with regard to food production and distribution, should take into account the need of all consumers for food security. Such policies and plans should, inter alia, provide for adequate post-harvest handling, storage, processing and distribution and should also take into account problems arising from seasonal fluctuations in food supply and prices. Appropriate incentives for increasing food production and for its wider distribution and marketing should be elaborated. In this connection, appropriate policies might encourage consumer and producer cooperatives.

(b) Governments should develop or improve the national strategy for food quality control, taking the following elements into account:

(i) The food quality control infrastructure should be developed and strengthened, especially through national legislation on food standards, food testing laboratories and food inspection services, covering food production, processing, marketing and distribution, and the training of the necessary managerial and professional personnel.

(ii) Food safety should be ensured through the development or strengthening, inter alia, of safety criteria, food standards, and effective inspection and evaluation mechanisms.

(c) Food contamination monitoring and control programs should be established or strengthened.

(d) Governments should as far as possible adopt standards from the Codex Alimentarius, or in their absence, other international food standards. They should also accept and implement the Code of Ethics for the International Trade in Food adopted by the Codex Alimentarius Commission.

(e) Governments should encourage consumer participation in food quality control activities, particularly in formulating policies and drafting food regulations and standards.

(f) Business practices affecting the processing and distribution of food products, and especially the marketing of food products which are inappropriate to the dietary requirements and habits of developing countries, should be regulated, if necessary, in order to ensure that such practices do not conflict with consumers' interests or government objectives in the area of food policy.

Water.—(a) Governments should, within the goals and targets set out for the United Nations International Drinking Water Supply and Sanitation Decade, formulate national policies and plans to improve the supply, distribution and quality of water for drinking and sanitation purposes, aiming at a general upgrading in the level of services provided to the population.

(b) In developing such policies, the following principles should particularly be considered:

(i) Governments should pay due regard to the choice of appropriate level of technology compatible with prevailing economic and social conditions.

(ii) Education programs should be established, especially in the rural

areas, to raise awareness of the importance of clean water and adequate sanitation as well as the appropriate use of available water.

(iii) Community participation should be encouraged, especially in rural areas, in the construction, operation and maintenance of water supply and sanitation facilities.

Pharmaceutical products.—(a) Governments should develop or, where they already exist, systematically monitor national drug policies as part of the country's health program in order to improve the pharmaceutical supply and distribution situation, taking especially into account the work and recommendations of the World Health Organization. As part of this policy, Governments should review, and adopt or strengthen, as appropriate, legislation and regulations applying to all drugs, which would include the selection, importation, production, distribution, manufacturing practices, and promotion and supply of information about drugs. Promotional activities by manufacturers should not conflict with Governments' public health objectives.

(b) Measures should be taken at the national level to promote the use of essential drugs under their International Non-Proprietary Names (INNS), drawing upon the work done by the World Health Organization, and to encourage doctors to prescribe drugs by their generic names, where feasible. Measures should also be taken to provide health workers and consumers directly with authoritative independent information on the drugs.

(c) A national registration system for pharmaceutical produtcs should be established on the basis of reliable information obtained, *inter alia*, through national institutions, bilateral and regional arrangements, and international organizations, particularly the World Health Organization.

(d) Drug procurement and distribution systems should be developed and/or strenghtened.

(e) The quality of drugs should be controlled and/or protected at all levels in the distribution system. For imported products use of the WHO Certification Scheme for the quality of pharmaceutical products moving in international commerce should be encouraged.

(f) Training should be encouraged and/or provided for personnel at all levels concerned with the distribution and marketing of drugs.

(g) Local production of drugs should be encouraged, where economically feasible. Consideration should be given to periodic reviews of licensing agreements concerning the local manufacture of drugs, and of policies with regard to the transfer of technology.

(h) Research on the use of local resources, including traditional remedies and medicinal plans should be promoted, especially where they can make a potential contribution to primary health care.

8. International cooperation

(a) Governments should, especially in a regional or subregional context:

(i) Develop or strengthen the exchange of information on national policies and measures in the field of consumer protection.

(ii) Cooperate in the implementation of consumer protection policies to achieve greater results within existing resources. Examples of such cooperation could be collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programs, joint training programs and joint elaboration of regulations.

(iii) Cooperate to improve the conditions under which essential goods are offered to consumers. Such cooperation could include joint procurement of essential goods, exchange of information on different procurement possibilities and agreements on regional product specifications.

(b) Governments should develop or strengthen information links regarding products which have been banned, withdrawn or severely restricted in order to enable importing countries to protect themselves adequately against such products. In this connection, Governments might wish to take into account General Assembly resolution 37/137 "Protection against products harmful to health and the environment" relating to this subject.

(c) Special consideration should be given to ensuring that the quality of the products intended for different countries, and information relating to such products, does not vary from country to country in a way which would have detrimental effects on consumers.

Senator PRESSLER. With that, I will call this hearing to a close.

[Whereupon, at 11:35 a.m., the subcommittee adjourned, subject to call of the Chair.]

APPENDIX

PREPARED STATEMENT OF THE UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

The United States Council for International Business, a policy-making organization representing the interests of 250 corporate members on numerous trade and investment issues affecting their ability to compete effectively in world markets, is pleased to present its views on the general topic of U.N. regulations and specifically on the draft U.N. Guidelines on Consumer Protection, which will be considered at the Third Committee (Program and Coordination) of the July session of the U.N. Economic and Social Council (ECOSOC). Speaking as the major U.S. business association concentrating solely on the international marketplace, the U.S. Council must express its concern on the substance and implications of the draft Guidelines.

INTRODUCTION

In general, the United States Council believes that the forces of the free market economy and open competition best serve the interests not only of international industry and its customers, but the community at large. Indeed, as the U.S. affiliate of the International Chamber of Commerce (the world business organization), the Council's objective is to ensure the most open trading system possible.

The issue of U.N. consumer protection activities should be viewed in the broader context of international regulations. Therefore, it seems appropriate first to describe the U.S. Council's position with regard to U.N. regulations in general, and then to proceed with an outline of the Council's concerns regarding the draft U.N. Consumer Protection Guidelines.

INTERNATIONAL REGULATORY EFFORTS

The International Chamber of Commerce has had official access to the United Nations since 1946, when it was granted "Category I" NGO (nongovernmental) consultative status with the ECOSOC. Since that time, the ICC and the U.S. Council, have played a vital business role on a wide range of international regulatory efforts including: the U.N. Code of Conduct on Transnational Corporations, the UNCTAD Codes on Restrictive Business Practices (RBP) and Transfer of Technology, and the Revision of Paris Convention of the World Intellectual Property Organization (WIPO).

We have maintained throughout discussions on these and other Codes—and still maintain—that the business community's interests are best served through active participation at the international and national levels. Working with guidance from all interested parties, the State Department, among other agencies, has pursued a balanced approach at international negotiating sessions, clearly enunciating its principles and yet demonstrating a willingness to discuss areas of controversy.

Based on these experiences we wish to commend the State Department representatives who have labored long and hard under the most frustrating conditions to stand by U.S. principles while at the same time demonstrating that the United States does not come to the conference table with a closed mind.

Over the course of many years, the business community has seen the positive result of this willingness to communicate rather than to reject proposals outright, as tempting as that may be. Out of this dialogue, the Third World's understanding of our positions, and of the economic facts upon which they are based, has increased perceptibly, and we have come to understand better some of the factors that motivated them. Some of their attitudes toward foreign investment have noticeably softened. Opportunities to build markets for U.S. products and services will be strengthened by continuing this approach.

On the other hand, a policy of blanket objection to U.N. proposals, because they originate with groups of countries having an ideology different from ours, can only harden the attitudes towards us. In no way can our objections prevent adoption by the General Assembly of the numerous sets of Codes, Guidelines and the like with which we disagree. Our only satisfaction will be that the United States can refuse to incorporate such proposals into its national legislation—an option which was exercised with respect to the Law of the Sea Treaty.

In several instances the philosophy of "working within the system" has allowed the United States to shape the outcome of U.N. work. This would not have been the case had the "pick up your marbles and go home" mentality prevailed. Because of its diligence, the U.S. Government has thwarted efforts on the UNCTAD RBP Code and directed efforts on the Code of Conduct in such a manner so as to lessen considerably the potentially negative impact on U.S. export competitiveness and on job creation. We submit that working within the established system has served the business community well.

The U.S. Government, and the U.S. Council for its part, has stressed five major principles throughout its involvement in U.N. work:

Responsibilities of both governments and MNEs should be recognized.

Codes of conduct should apply to all international investors, including private, government or mixed.

Governments should treat foreign-based enterprises no less favorably than domestic enterprises (both private and government-owned), in accordance with general principles of international law.

Codes of conduct should be non-binding and flexible.

Principles of international law should be respected in areas ranging from fair and equitable treatment to sanctity of contracts.

On many occasions the very principles that most Americans consider to be fundamental, are the focus of attack by international codes. Philosophies such as the New International Economic Order (NIEO) and the New World Information Order (NWIO) seem to serve as the foundation for many U.N. initiatives and run contrary to American ideals of a free market economy. The espousal and potential implementation of the philosophies, is the primary reason for the U.S. Council's advocacy of strong U.S. Government participation in all U.N. activities.

Without a strong U.S. presence in U.N. negotiations, efforts like last year's Resolution on "Protective Against Products Harmful to Health and Environment" might very well have had dire consequences on U.S. exports. The Resolution as originally drafted:

"Urges all countries that have prohibited the consumption, use, and/or sale or harmful or potentially harmful products to ensure that these are not produced or exported by corporations or individuals that have their main seat of business in their territory, or are otherwise liable to their jurisdiction."

As a result of tireless efforts by the State Department (through the U.S. Mission to the United Nations), in concert with the British Government in particular, and with assistance from the U.S. Council, this provision now reads:

"Agrees that products which have been banned for domestic consumption and/or sale because they have been judged to endanger health and the environment should be sold abroad by companies, corporations or individuals only when a request for such products is received from an importing country or when the consumption of such products is officially permitted in the importing country."

U.N. CONSUMER PROTECTION GUIDELINES

Drawing on its NGO status through the ICC and its own informal contacts with the United Nations, the U.S. Council has monitored U.N. consumer protection activities since their inception in 1979.

The first step toward actual consumer protection guidelines was taken through a U.N. Economic and Social Council (ECOSOC) resolution in 1978, which surveyed developing countries on the current status of their domestic consumer protection legislation. After examining the results, ECOSOC commissioned a consultant to report on key areas for consideration and to propose means for dealing with these issues. This report, issued in June 1981, coincided with a regional consultation on consumer protection held in Bangkok. The consultants' report and the report that emerged from Bangkok were considered at the July 1981 ECOSOC session. This session passed an imprecise resolution calling for consideration of the idea of drafting consumer protection guidelines, to be submitted to the July 1983 ECOSOC Session. Despite the ambiguous wording, Lars Broch (Norwegian) was hired to draft the proposed guidelines.

The U.S. Council observed the progress of these guidelines from the beginning. The first opportunity to influence the course of events came during the drafting of the first report by the U.N. Secretariat. U.S. Council experts consulted with the authors on this draft and were successful in balancing the views of the international consumer movement, which had originally inspired the U.N. exercise.

At the same time, the ICC dispatched a delegation to the Bangkok consultation on consumer protection. (Of the five members, two were U.S. business representatives.) At the conference, the ICC delegate issued his own statement outlining the business viewpoint.

During consultations with the United Nations, the Council made clear its conviction that self-regulatory mechanisms designed to protect the interests of consumers were more effective, less costly and more responsive to local needs than were inter-governmental regulations. Despite its willingness to cooperate, the Council questioned the desirability of having the United Nations promulgate formal consumer protection guidelines for universal application.

Many consumer organizations would deny the rightful place of self-regulation in the protection of consumers interests. We would submit that this adversarial approach is inflexible and results from the desire to maintain an atmosphere of controversy. Conversely, the survival of most corporations rests with their ability to maintain loyal customers and to seek out new buyers.

In a recent letter to Secretary of State Shultz, the Council stated the following views with regard to the U.N. Consumer Protection Guidelines:

"In light of the preferability of self-regulation and the current strain on U.N. resources, our first recommendation would be that the U.N. set aside the preparation of a global consumer protection code in favor of appropriate national legislation and self-regulation. However, should the substantial momentum behind the guidelines make it impossible to impede their development, the business community feels it crucial to have an input regarding the form in which the guidelines are eventually adopted. We would, therefore, like to take this opportunity to submit general comments on the guidelines as currently drafted.

(1) *The proposed guidelines place too heavy a reliance on regulation as a means of ensuring adequate consumer protection.*

We believe that greater recognition should be given to the contribution which the private sector has made in this field and to the role which it can play in assuring appropriate consumer protection.

(2) *The portions of the draft guidelines dealing with safety standards are overly broad and attempt to deal with complex issues under a set of generalized provisions.*

The appropriate regulatory approach to a particular product may vary from country to country, in the light of different perceptions of the cost/benefit ratio of using that product, or different public priorities, or different climatic or user conditions. The complexities in this area make the drafting of standards a matter which requires great care and a thorough understanding of the subject matter. These sections also raise several ambiguities, through the use of such terms as "intended and normal use," "exact safety records," and "hazards."

(3) *Little recognition is given to the need to hold domestic enterprises accountable to the same standards as would apply to multinational corporations.*

Indeed, one section of the Guidelines actually singles out transnationals as requiring special supervision.

Many of these points will be reiterated by the business community through a statement that the International Chamber of Commerce will make to this summer's ECOSOC session.

In addition to the points just recited, the ICC will point out that:

1. There seems to be a trend toward over-regulation at the national level which, because of diverse socio-economic differences among nations, could have far-reaching negative consequences if imposed at the international level. The ICC would therefore question the need for a universally applicable code.

2. The ICC would lay particular emphasis on the word "appropriate" throughout the Guidelines as acknowledgement of the distinction between levels of sophistication separating the developed and developing countries. We would submit that the measures encouraged by the Guidelines are frequently unattainable and inappropriate for many LDCs, given their current state of infrastructural development.

3. Adequate attention should be paid to the cost factor in all regulation. Not only will consumers be obliged to bear the implementation costs through high product costs, they (as taxpayers) will have to absorb administrative

and enforcement costs for governmental bodies. In light of the present economic circumstances, the ICC therefore urges that more attention be paid to cost-benefit analysis.

4. Because the Guidelines were intended to be of a broad nature, the ICC would encourage the removal of industry-specific provisions, such as the one dealing with the pharmaceutical industry.

5. Business has first hand knowledge of consumers' aspirations and behaviors and, therefore it, along with consumer organizations, should be involved in the development of consumer legislation.

CONCLUSION

Although we would prefer the abandonment of these Guidelines, we realize that the momentum is such that this is unlikely to happen even if the United States were to cast the sole negative vote. We would, therefore, urge the U.S. Government to play a leading role in the development of balanced and reasoned provisions, and in the direction of the overall thrust of the Guidelines, rather than to abdicate its rightful influence by basking in splendid isolation.

The United States Council for International Business, is prepared to place its expertise at the disposition of the U.S. Government to ensure that the end result of this exercise is a balanced and compatible document. Should this be impossible to achieve, after full and reasoned consideration, we wou'd be the first to urge rejection by the U.S. Government. We believe that to take this negative step at the outset, without a sustained cooperative negotiating effort, reduces our credibility and our ability to influence international economic cooperation in what we are convinced is the only path to sustained and viable economic growth and prosperity.

COMMENTS OF THE INTERNATIONAL ORGANIZATION OF CONSUMERS UNIONS ON THE U.N. DRAFT GUIDELINES ON CONSUMER PROTECTION

At the hearings on May 19, 1983, called by Senator Pressler on the U.N. Draft Guidelines on Consumer Protection prepared by the Secretary General at the request of the Economic and Social Council, July 1981, for consideration at the forthcoming regular session of the Council, July 1983, concern was expressed that the Guidelines might become an extension of what is seen as a move toward international regulation by the United Nations and a creeping "global socialism."

As Ambassador Kirkpatrick remarked during the hearing, the United States has an advanced level of consumer protection measures in which it believes, and recognizes the basic needs of consumers around the world for consumer protection. What is apparently feared is that the Guidelines if adopted, might lead to a "Big Brother" system of international regulation of national behavior. The fear was also expressed that the adoption of the Guidelines might possibly interfere with the operation of the free market system of capitalist economies.

Before replying to these major concerns, it should be noted that the International Organization of Consumers Unions which strongly supports the adoption of the Guidelines by ECOSOC is an organization of 110 member associations in 50 countries developing and developed, East and West, North and South. It was founded 21 years ago in the Hague, where its Headquarters have remained, when a number of consumer associations in industrialized countries, which were rising out of the ashes of World War II in the rapid economic development of the fifties banded together for the purpose of exchanging information, and product testing results as well as sharing their common experience. The Founding Members of IOCU were the United States, United Kingdom, Australia, Canada and the Netherlands. These Founding Members continue as permanent members of the Executive Committee of IOCU. The sixties and seventies saw rapid economic development in a number of developing countries and a corresponding emergence of consumer associations in those countries and their affiliation with IOCU. IOCU established a Regional Office for Asia and the Pacific to assist them in dealing with their special concerns and they are represented in the IOCU council. The present President is from Malaysia and the Executive Director from Norway.

Urbanization with its attendant mass markets, industrialization, with its increase in production and consumption of manufactured and processed products inevitably creates greater choices but also creates problems for consumers associated with the need to have sufficient information to make informed choices as well as to be protected from misrepresentations, fraud, and dangerous products. In short, wherever there has been development, the consumer movement has

spread. While levels of development vary considerably, and accordingly, the basic needs of consumers for health, safety, information and economic welfare are indeed global, in the experience of our member associations around the world.

The need for consumer protection is global, but the satisfaction of that need is not related to any ideology or political economic system. Indeed, it should be observed that consumer protection legislation and institutions for enforcement of that legislation are most advanced in free market economies. Consumer Protection laws and regulations in industrialized market economies have permitted the market to operate freely, i.e. competitively, and with a wide range of choice precisely by providing the assurance so necessary to any orderly society of reasonable rules and the assurance that where there has been a violation of the rules, recourse to law is available and undue power is not permitted to trample on the fundamental rights of the individual to health, safety and protection against exploitation.

The OECD recommendations on consumer protection issues like the U.N. Draft Guidelines, make recommendations to Governments. Correspondingly, the U.N. Draft Guidelines like the OECD Recommendations do not establish any supranational authority or system of international regulation. When adopted by Member States they will constitute principles and proposals for action at the national level accepted by all as minimum standards which, if adopted universally, will serve to increase international trade. These standards are generally below those already established in OECD countries, and thus should create no burden for those countries in respect of their products for domestic use. If these standards are applied to products intended for export and if these standards are likewise adopted by countries whose standards are now below the minimum level, not only will consumers in those countries benefit but exporters from industrialized countries will be on a more competitive plane with domestic producers reducing the lure for the more unscrupulous producers and distributors of countries without such standards.

The protection of consumers world wide is desirable not only for obvious humanitarian reasons but because from a practical point of view, good health is associated with increased productivity. As Secretary of State George Schultz recently noted (N.Y. Times, May 27, 1983), it is in the interest of the United States to help developing countries improve their standard of living and their level of productivity if the United States is to benefit from the increased trade with them that is essential for its own economic development in the future.

Three other points. It has been argued that bilateral assistance in consumer protection can be made available. This would help some countries, but would take a long time if ever, to reach all countries and it is the universal applicability of the principles which would provide a minimum of protection to all consumers and a more competitive market for all producers and sellers.

The question has also been raised as to why special attention is paid to rural populations. Between 80 percent and 90 percent of people in developing countries live in villages. Many of these are poor and isolated and thus particularly subject, because of the absence of competition and choice, to unscrupulous practices.

Finally a question has been raised with respect to the encouragement of local production. In view of the level of hunger and malnutrition in some developing countries and the immediate need to alleviate it this recommendation is appropriate and in no way constitutes a barrier to increased international trade in agricultural products.

IOCU appreciates the concerns of the Subcommittee and welcomes this opportunity to clarify the structure and purposes of IOCU, the reasons for its support of the U.N. Draft Guidelines both for humanitarian reasons and for the role consumer protection can play in stimulating world trade and sound economic development.

Respectfully submitted,

INTERNATIONAL ORGANIZATION OF
CONSUMER UNIONS,
By DOROTHY WILLNER, *Representative*
to U.N. Economic & Social Council.

COMMENTS OF THE
GROCERY MANUFACTURERS OF AMERICA
TO THE
UNITED STATES DEPARTMENT OF STATE
ON THE PROPOSED
UNITED NATIONS CONSUMER PROTECTION GUIDELINES

In January of this year, the Grocery Manufacturers of America, Inc. (GMA), filed with the Department of State comments raising "preliminary concerns" about the draft Consumer Protection Guidelines pending before the United Nations Economic and Social Council (ECOSOC). At the time, GMA committed to study the Guidelines further and then to submit these, more detailed comments.

Our preliminary concerns changed to alarm when the full implications of the Guidelines were revealed by analysis. For the reasons stated in these comments, we urge that the United States oppose the further consideration and implementation of these Guidelines and that it communicate that opposition in strong, clear and unmistakable terms to ECOSOC.

The Guidelines are drafted in part expressly for the purpose of affecting the regulation of commerce, both domestic and foreign. With regard to the United States, Congress has exclusive jurisdiction "to regulate Commerce with foreign Nations and among the several states . . . . " Article I, Section 8, The Constitution of the United States of America. Since the United States comments can represent an implied commitment for implementing the Guidelines, we urge that the appropriate federal legislative committees be given an opportunity to take action before any position is taken in the name of the United States. If a position on these Guidelines has been taken by the Department in the name of the United States, we respectfully request that it be withdrawn and presented to Congress for review.

INTEREST OF GMA

GMA is the trade association of the leading manufacturers of food and other grocery products sold in retail outlets throughout the United States. GMA member companies employ over 2.5 million people and have total annual sales in excess of $200 billion in this country alone. Many of them market their products and conduct manufacturing operations in 111 countries around the world. The proposed Guidelines are intended to have a pronounced effect on all business organizations, especially those doing business internationally, and most particularly on those that produce and sell food and pharmaceutical products. GMA believes that the effect of implementing these Guidelines could be disastrous and that it has a responsibility to vigorously protect its member companies in this regard.

GMA COMMENTS ON PROPOSED INTERNATIONAL CONSUMER PROTECTION GUIDELINES

1. The Proposed Guidelines Are Symptomatic of a Larger Problem at the United Nations.

The United States must take a stand against the proposed Guidelines, not merely because they would be onerous to American business, but, more importantly, because they represent further advancement of what Ambassador Jeane J. Kirkpatrick described as a "new global socialism" —

> The fact that this regulatory thrust is focused at the level of the international bureaucracy, I think, is a suggestive clue about the strategy for establishment of this new global socialism, this paternalism in which this international bureaucracy believes it knows better for everyone — better for us, better for the Third World, better for everyone.

* * *

> United Nations agencies, then, are the scene of this struggle, which we seem doomed to lose. Regulation is the instrument of the redistribution of what is called the world's wealth. The international bureaucracy functions as the new class to whom power is to be transferred. Global socialism is the expected and, from the point of view of many, the desired result.[1/]

The obvious bias toward socialism is reflected repeatedly in the Guidelines, with the clear implication that only governments can remedy the economic problems of the developing nations. For instance, Guideline 4a states the following:

> Governments should consider adopting a specific policy for improving the distribution system for essential consumer goods and services, especially in rural areas. Such a policy could relate to assistance for the creation of adequate storage and shop facilities in rural centres, to incentives for consumer self-help, to better control of safety, quality, and prices of essential goods and services in rural areas, and to better consumer information and education for consumers having low literacy standards.

While the goals of this provision may be laudable, the means of achieving them are not. The guidelines suggest that governments — not the marketplace — should dictate the level of distribution, shop and storage facilities, should control safety and quality, should control pricing of products, and so forth. Left unstated are the government mechanisms for determining what constitutes "essential" goods and services, what constitutes "urban" versus "rural" populations, how much consumer information is required, and other issues. This provision is typical of the Guidelines as a whole, which, if adopted, would be ratification of the concept of imposing unworkable socialist economic and social policy on all nations.

1/ "Global Paternalism: The U.N. and the New International Regulatory Order," Regulation Magazine (American Enterprise Institute, January/February 1983) at 22.

2. The *Proposed Guidelines* are in Violation of the United Nations Charter.

A reading of the United Nations Charter makes clear that the drafters intended the U.N. to function as a body with somewhat limited purposes. For example, Chapter 1, Article 1, Section 3 states that the United Nations —

> shall seek to achieve international cooperation in solving international problems of an economic, social, cultural and humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all.

The very essence of this clause of the Charter is that the U.N. should aim to solve problems of an international nature. Yet there has been no showing that the proposed Guidelines respond to identified problems international in nature.

Ostensibly, the Guidelines are an outgrowth of a Report of the Secretary General regarding consumer protection in the developing world.[2/] This report noted a number of alleged problems, primarily in the developing world, in basic consumer protection matters. The resulting Guidelines wrongly assume that the interests of consumers worldwide are monolithic and capable of protection by imposing a single, socialist value system upon every nation's consumer protection efforts.

The Charter also states, at Chapter 1, Article 1, Section 7, that —

> nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.

The proposed Guidelines, however, are based upon major policy conclusions that should be reached only through individual political mechanisms. The General Principles of the Guidelines set out a list of basic consumer "rights," as if they are part of natural law. Yet, every nation individually must go through a weighting of the costs and benefits of

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2/ Report of the Secretary General prepared in compliance with Economic and Social Council Resolution 1979/74, No. E/1981/75 (June 4, 1981).

various consumer protection measures, determing what is feasible for the particular circumstances of the country.

Thus, the level of required "available and effective redress," "consumer education," "physical safety," "economic safety," and so forth must be based upon value judgments of individual societies, and the results will never be uniform. As mentioned, our founding fathers thought that the regulation of commerce was so important that it reserved this power to the legislature.

3. The Proposed Guidelines Doom Underdeveloped and Developing Nations To Repeat Mistakes Made By Their Developed Counterparts.

The Guidelines appear to be an outgrowth of the failed consumerist movement of the 1960s and 1970s that looked to governments to resolve all consumer economic, health and safety issues. As Ambassador Kirkpatrick has observed —

> An interesting role is played in this regulatory process by non-government organizations. Apparently, some of the non-government organizations who do not achieve much success in this country, or in their own western countries, have focused very heavily on the United Nations as the point at which to try to secure adoption of regulatory and punitive policies which they cannot get adopted in their own political system. It has been observed, at the U.N., that there is emerging a kind of recognizable "iron triangle" uniting non-governmental organizations, Third World representatives, particularly of the radical Third World countries, and ideologically sympathetic international bureaucrats in quest of restrictive international health and safety regulations. We note with interest that this new international paternalism almost invariably advocates adoption in the U.N. of restrictions on activities which could just as easily, in principle, be adopted within the specific countries of the member nations, if those countries chose to do so. If, for example, the countries of Africa did not desire the marketing and advertising of infant formula, there's no reason in the world that their governments could not so decide, and adopt such policies at the national level.[3/]

3/ "Global Paternalism. . . ," supra note 1, at 21.

Consumerists lobbied actively, but unsuccessfully, in this country for the creation of a centralized Federal Consumer Protection Agency during the 91st, 92nd, 93rd, 94th and 95th Congresses, but Congress was unpersuaded that complex consumer issues could be identified and advocated by a single agency. Congress recognized what the proponents of the Guidelines have consistently failed, or refused, to recognize — that a single consumer interest never can be isolated. Instead, every governmental decision regarding consumer issues involves the balancing of the benefits of regulation against what consumers are willing to pay for such benefits. For example, the price of an item may not be as important as an adequate supply; safety regulation may be desirable, but only to the extent that it does not make a product unaffordable. In essence, consumer issues involve trade-offs that generally are resolved best through national, not international, political systems.

In the United States, Congress made a decision that the market place is better suited to resolve most consumer issues. It would be antithetical to our basic capitalist philosophy for the United states to support international directives that insist that only governments can and should resolve most consumer issues. Of course, individual nations may seek to resolve consumer issues in this way, but it is wholly inappropriate for the United Nations to advocate greatly increased government control as the best, if not only, means of consumer protection.

Furthermore, as the Guidelines are now drafted, they are highly restrictive of the conduct of "transnational corporations." Yet, it is the underdeveloped and developing nations that are most in need of increased industrial investment to compensate for the lack of a domestic industrial base. International adoption of the Guidelines would discourage such needed international activity.

4. The Proposed Guidelines Are Unnecessary Because Adequate International Consumer Protection Mechanisms Already Are In Place.

In January of 1976, the International Covenant on Economic, Social and Cultural Rights became effective, having been ratified by 35 nations. That Covenant states that every ratifying nation acknowledges its responsibility to promote better living conditions for its people; its recognition of everyone's right to work, to fair wages, to social security, to adequate standards of living and freedom from hunger; and everyone's right to health and education.

With respect to food, Article 11 of the Covenant states:

> 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
>
> 2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
>
> (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.
>
> (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

The key difference between this Covenant and the Guidelines is that the Covenant sets basic economic, social and cultural goals for all nations, but it leaves up to the individual governments how these goals should be reached, and it refrains from imposing

a socialist value system that implies that only government control can adequately accomplish economic progress.

Besides the International Covenant on Economic, Social and Cultural Rights, the FAO/WHO Codex Alimentarius Commission continually develops international food standards with the aim of protecting the health of consumers and to ensure fair practices in food trade, to promote coordination of all food standards work undertaken by international governmental and non-governmental organizations, and for other purposes. Furthermore, the Codex Alimentarius Commission has developed a Code of Ethics for International Trade in Food,[4/] establishing standards of ethical conduct for all those engaged in the international trade in food or responsible for regulating it and thereby to protect the health of the consumers and promote fair trade practices.

The Report of the Secretary General, in response to which the Guidelines have been developed, speaks favorably about the activities of the Codex Alimentarius Commission:

> The Codex Alimentarius Commission, however, has been engaged in determining international standards for processed food items that enter international trade. Since the bulk of the food produced in developing countries is consumed within the country in its unprocessed form, these countries have to determine their own national criteria and standards with regard to these items. The Codex standards provide a very important guide in this area and the work of the Commission, particularly in regard to its recommendations regarding pesticide residues, contaminants, labelling, codes of hygienic practices is of particular relevance to the developing countries.[5/]

Thus, international consumer protection mechanisms already are in place with respect to international trade in food and international food standards. Therefore, at least with respect to food, imposition of international socialist directives is, at least, redundant, and, more likely, counterproductive to the progress that already has been

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4/ CAC/RCP 20 - 1979.

5/ Supra note 2, at 21.

made in this area. Furthermore, the International Covenant discussed above sets many of the same economic goals as addressed in the Guidelines, but it imposes no political or philosophical judgments as to how those goals should be reached. Therefore, to the extent that international economic and consumer protection problems can be addressed, they are being addressed, and the Guidelines do nothing to bring these problems to an earlier solution.

5. The Proposed Guidelines Are Vague And Raise Significant Questions.

A detailed review of the Guidelines reveals a vaguely drafted document that precludes the ability to accurately project its impact. The Guidelines are written as mandates — "Governments should. . . ." Yet, the specific language must be focused upon in order to know just how to meet the mandated responsibilities of the Guidelines.

A. Objectives

The stated objectives of the Guidelines are lofty in terminology, however, there are several instances where significant issues are raised without appropriate resolution.

Objective c, "to facilitate production patterns geared to meeting the most important needs of consumers," for example, manages to completely overlook the possibility and importance of international trade. Many of the countries most successful in development have patterns of production that have less to do with the needs of their country's consumers than those of other countries. Instead, Singapore, Taiwan, Hong Kong and the Gulf States, for example, all produce for the needs of international markets and then use the proceeds from that production to pay for the most important needs of their consumers. To force them to restructure their patterns of production to meet the needs of their consumers without study of the possible effects would be foolhardy.

Objective e "to curb business practices at the national and international levels which adversely affect consumers" is so broad as to be meaningless and, therefore, dangerous. To find an adverse effect one must compare one business practice with some

other practice or make judgments about effects. Virtually every business practice has an effect on price, conditions of sale, distribution, or other market characteristics. For example, to improve the amount of information about or quality of a product may result in an increase in price. Is the price increase "adverse" to consumers? Who is to judge whether it is adverse? The Guidelines present an unreasonable opportunity for arbitrary and capricious decision making.

B. General Principles

The general principles given in the Guidelines are not the principles on which a good consumer protection policy can be based. They assume the existence of rights that have never existed, and they overlook the fact that consumer protection efforts are never without cost.

Viable consumer protection is the result of public policy balancing: balancing the benefits of extra information with its cost and possible counterproductive effects from information overload, balancing the benefits of extra safety with its cost or possible lost options, balancing the benefits of better systems of dispute resolution and redress with their costs and effects on business risk taking and supply. Nowhere in the general principles is there any recognition that all the desired objectives have both benefits and costs. One could understand the general principles better by substituting the words "the benefit of" for "the right to." Then one would have a list of desired benefits: the benefit of physical safety, the benefit of such information necessary to make informed choices, the benefit of available and effective redress, and so forth. Stating it this way reminds one that each item in the list has its cost, and these must be balanced in order to set good policy.

Besides these general problems with the principles, there are a number of particular problems, as well.

The right to physical safety. The pursuit of safety is complex, relative and resists simple statements of principle. Not only may it be costly, but different people have different attitudes toward it. In the name of the right of physical safety a government could define dangerous goods and services and then ban them — alcohol, pesticides, motorscooters, herbal cures, and tribal doctors. However, these may be things from which consumers in general do not want protection beyond information.

The right to "economic safety from offenses or malpractices which deny consumers optimum benefit within their economic resources", is incomprehensible. Does it include the Berlin Wall? OPEC petroleum production and pricing? Who determines what an optimum benefit is? The Government?

To assert a "right to such information as is necessary to make informed choices according to individual wishes and needs" overlooks the economics of information. Information can be costly and difficult to transmit, especially when keyed to "individual wishes." Problems multiply when that information must cross cultural barriers. The critical question, again, is who determines what is necessary information. Furthermore, one of the effects of markets is to reduce the amount of information that is necessary to make a rational choice.

One of the greatest benefits of modern food marketing, for example, is that manufacturers have such a stake in their reputations that they maintain what in other times and places would be considered extraordinary quality control and standards of wholesomeness. A brand name often acts as proxy for a particular level of quality. Furthermore, in both the common law and the civil law traditions, there are various prohibitions against non-disclosure of material facts. Within our country's legal system are all the elements necessary to develop appropriate standards of care for manufacturers and sellers. What would be the implications of our suddenly recognizing a "right" to necessary information without any understanding of the process for determining what is necessary? Would new private causes of legal action lie for failure to provide such information?

The assertion of a right to consumer education is another example of begging the major questions of who is to provide the education and what is the content to be. Does this mean that public school curicula must be changed, or that businesses must undertake the cost of such education and determine its content?

The right to available and effective redress appears to suggest expansion of present legal and extra-legal dispute resolution mechanisms and implies the concept of strict liability, with consumers never taking risks. Virtually all countries have a system of either civil or common law. These are the systems of last resort for resolving disputes. To add small claims courts, or arbitration or other informal mechanisms may well be appropriate in some cases, but is certainly not in others. Fact-finding, a necessary ingredient of any system, is costly and imperfect.

Apportioning responsibility for uncertainty, that is, determining the burden of proof, is difficult. Designing new mechanisms which can be effective is likely to be very culture-specific. What will work in Copenhagen need not necessarily be effective in Calcutta. Often the cost of the mechanism is more than the amount of the redress; in that case, policy may dictate that it should be used only when the benefits to third parties are significant. It cannot be forgotten that in the long run the consumer will end up paying the costs and that there often are benefits in a system that allows consumers to assume some risks, be they in the stock market or "as is" automobiles.

In this country, one cannot quarrel with the right to form consumer organizations, nor with the right of citizens to be consulted as with any other group. This may not be so in all countries.

To have a right to be represented raises significant issues whenever it is presented. Consumer interests are extremely difficult to organize, precisely because there are so many of us and our interest as consumers in any particular issue is often quite limit-

ed. A large number of small interests can add up to a large interest. Still, it is an ancient problem of democratic theory and policy to find methods of authentic consumer representation.

As already discussed, the recent history of the consumer movement in this country is instructive. The relationship between the consumer movement today and the interests of consumers is largely rhetorical. On most issues, consumerists are an arrowhead without a shaft. There is no mechanism whereby the leadership of the consumer groups, or anyone else, can be certain what the interests of their constituents are. Thus, there is no reason to believe that groups called consumer groups in fact adequately represent all consumers. Therefore, while in principle it would be attractive to have consumers represented, in practice there never has been an effective mechanism of government to achieve this.

The principles go on to claim that, "in developing countries, the introduction of new products and changes in the distribution system must be assessed in relation to local conditions and with due regard for the existing production, distribution and consumption patterns for the country or region concerned." What does this mean? Is the United Nations to make such assessments and tell a country what new products may be introduced? Is this intended to be a limitation on the governments of developing countries? On their consumers?

New products and changes in the distribution systems could be the salvation of developing countries. For every improvement in a country's economy there likely will be some existing interest harmed. One of the virtues of a large, integrated, impersonal market is precisely that it puts inefficient or obsolete production, distribution and consumption patterns out of business.

This Guideline language, if taken seriously, could destroy that major function of markets by turning that function into a political one. Anyone who thinks he is harmed by technological change, and who has political clout, would have standing to prevent the

change. All he has to do is convince the relevant political body to delay endlessly if not kill the change. The market test of a change is the proper one. The special emphasis on rural populations makes no sense here; the general principles could have just as plausibly put special emphasis on urban populations.

As it stands, the statement of general principles can lead only to unprincipled consumer protection policy, dependent upon subjective interpretation. This fatal flaw permeates the rest of the document as well. Nowhere in the draft is there demonstrated a clear understanding that safety, quality, information, and redress are relative terms the implementation of which could carry significant costs.

C. The Guidelines

Following is a highlighting of issues that are raised by the wording of particular guidelines.

1. **Physical safety.**

1a. It is the responsibility of the manufacturer to ensure that goods are safe for intended and normal use. As has already been discussed, there is a limit to how much "safety" can be provided without pricing a product off the market. Some element of a balancing of costs and benefits must be introduced for this section to have any meaning beyond complete strict liability. There also is a question as to when "intended use" is not "normal use."

1b. Businesses should take steps to ensure that the intended level of safety is met. Here the question is whose "intent" must prevail? The government's, the consumer's, the producer's, the consumerist's?

2. **Economic safety.**

2a. Satisfactory production standards, fair business practices, informative marketing and effective protection against economic offences are essential for the government to ensure that consumers obtain "the maximum benefit" from their economic resources.

Perhaps the U.S.S.R. would feel comfortable with this concept, but the United States Government should not seek to ensure that consumers obtain what the government interprets to be the maximum benefit from economic resources.

2b. It is the responsibility of the producer to meet normal demands of durability, utility, and reliability. This provision is inappropriate, as a matter of policy and law. The vagueness of this guideline and its placement of the burden entirely on the manufacturer reflects lack of understanding of the various levels of the marketplace.

2c. Governments should adopt, review and/or strengthen legislation to control restrictive and other business practices affecting the price and conditions of sale of goods and services. Every business practice affects price and conditions of sale. If this provision were taken literally, it would require government control of every aspect of business. This, of course, is a matter directly within the exclusive purview of Congress in this country.

2d. Producers should ensure the availability of reliable after-sales service. Repairs are like any other good or service. They have costs, and, where there is a potential or actual demand for them, markets generally provide them. Furthermore, production and repair are not necessarily best provided by the same source; the manufacturer is not necessarily the best suited to provide all repair services.

2e. Legislation should be developed to prevent producers from abusing their position through one-sided standard contracts. Standard form contracts can benefit consumers by greatly reducing transaction costs. The carefully negotiated contract is a law school fiction in all but the largest and most sophisticated transactions, precisely because it is such an expensive way to do business. Even theoretically perfect markets do not require that kind of bargaining. Again, however, this is a matter for Congress, not the State Department, to endorse or reject.

2f. Consumer participation should be ensured where public bodies purchase consumer goods and services. This presupposes that a consumer representative (whoever that might be) is in a better position than professional purchasing agents to evaluate pencils, army food, city buses and hundreds of millions of other goods and services. It also raises the question of who would pay for such additional evaluations.

2h. Governments should enact national codes on marketing to ensure fairness to consumers, and consumer groups should participate in the "elaboration" and monitoring of such codes. This is for Congress to decide, not the State Department. Under our form of government, such codes cannot be amended or "elaborated" (whatever that means) by private groups.

2i. Governments should regularly review weights and measures legislation. This is within the purview of Congress, not the State Department.

2j. Governments should intensify their surveillance of economic offenses by business, and consumer groups should be paid to monitor economic offenses. Translated, this states that (1) governments should use more resources to enforce the law covering economic offenses, and (2) consumer groups should be paid as vigilantes to accomplish the same purpose. Resources are not infinite. Congress should make such judgments.

3. **Elaboration of standards for the safety and quality of consumer goods and services.**

3a. Governments should participate in or encourage the implemention of national and international standards. Standards are already in place for many types of products, such as food, as has already been discussed. In fact, many, if not most, governmental standards are derived from private standards. It is good policy to avoid standard setting unless the costs and benefits have been weighed. Standards are not inherently good, as the Guidelines imply. For example, standards can be a facade for non-tariff barriers to international trade, as the Guidelines appear to recognize. See 3d.

3b. When necessary a national standard should temporarily be lower than international standards. This is one of the few places in the Guidelines where the possibility of international flexibility in the face of costs is recognized.

3d. Standards, testing, certification and other administrative procedures should not be used to create arbitrary barriers to international trade. This is true. It is curious that the drafters of these Guidelines do not see the possibilities for this proposal, itself, being a barrier to trade, if implemented. If this provision were made operational and primary, almost all of the other provisions would have to be deleted.

4. **Distribution facilities for essential consumer goods and services.**

4a. Improve distribution systems. This guideline has been discussed earlier.

4b. The establishment of consumer cooperatives for trading should be encouraged and supported, and these cooperatives should have consumer protection as part of their program. This provision is a result of the Scandinavian heritage of much of these Guidelines. It is questionable whether such organizations could be of broad value under our system. In any case, it is not appropriate for the United Nations to tell coops what to have in their programs.

5. **Measures enabling consumers to obtain redress.**

Governments should establish or maintain consumer redress measures that are speedy, fair and inexpensive. This is a worthy objective. However, what is speedy, fair and inexpensive may vary from nation to nation. The U.N. should not be the judge of such factors, of course.

6. **Education and information programs.**

This guideline includes the concept of requiring consumer education as a regular part of our nation's public school curricula and of the government "using" and conducting training programs for the mass media in this regard. Implementation of such proposals would not be possible under our federal system and its Constitution.

7. **Measures specifically related to food.**

7a. Governments should take consumer groups needs into account when planning food production and distribution. Among serious issues raised by this provision's recommendation for sweeping centralized powers is the value of "mechanisms for appropriate activity in the case of seasonal fluctuations in food supply and prices." If this means across-the-board price controls and import controls, it certainly runs contrary to the current policy of this nation. If it means agricultural subsidies and centralized government control over agricultural production, it flies in the face of the difficulties presently being experienced by such mechanisms in this country and in others. This is an area that should have received consideration by the Department of Agriculture, and clearly is a fundamental matter of Congressional concern.

7b. Governments should improve their national strategy for food safety and quality control. This would be a worthwhile goal if the Guidelines did not reveal its intended meaning. The Guidelines equate more stringent government regulation with improvement of safety and quality. This is not always the case, as we have found out in this country.

7e. Governments should "especially" regulate the processing, distribution, and marketing of highly refined and expensive food products. This provision reveals the drafters' ignorance or prejudice, or both. It constitutes an entirely unwarranted and unsupported linkage of processed foods with high cost and totally ignores the proven benefits of processed foods, particularly where quality control of non-processed foods is poor.

10. **International cooperation.**

10b. Quality of products intended for different markets should be equal or comparable. Only if tastes and economic resources were equal around the world would this make sense.

CONCLUSION AND GMA RECOMMENDATIONS

In conclusion, GMA believes that it is time that the United States took a leadership position and encouraged the other industrialized nations to take a firm stand in opposition to the continued issuance of outdated socialist doctrine from the United Nations. It is ironic that the nations that provide the United Nations its primary support are asked to endorse concepts at odds with their national interests, and, we believe, the world's interest.

If the Guidelines are to be considered, such consideration should be postponed until ECOSOC member nations — and the affected governmental and non-governmental bodies within those nations - have been given sufficient opportunity to study the Guidelines and analyze the effect that they would have on their nations' industries, trade, and so forth.

Because of the extraordinary breadth of the Guidelines, and their potential interference with matters generally considered within the political jurisdiction of individual nations, GMA would suggest that the United States request from the International Court of Justice an advisory opinion on the legality of the Guidelines under the United Nations Charter.

Finally, <u>at a minimum</u>, food products should be excluded from express coverage under the Guidelines, because the Codex Alimentarius international food standards and the Code of Ethics for International Trade in Food are more appropriate vehicles for such attention.

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